

No. 12513

United States  
Court of Appeals  
for the Ninth Circuit.

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UNITED STATES OF AMERICA,  
Appellant,  
vs.

O. E. HAMBLETON and HARRIET ELIZA-  
BETH HAMBLETON, His Wife,  
Appellees.

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Transcript of Record

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Appeal from the United States District Court  
Western District of Washington,  
Northern Division.

FILED

JUN 16 1950

PAUL P. O'BRIEN,  
Clerk



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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## NAMES AND ADDRESSES OF COUNSEL

J. CHARLES DENNIS and

VAUGHN E. EVANS,

Attorneys for Appellant,

1017 U.S. Court House,

5th at Spring St.,

Seattle 4, Washington.

STANLEY C. SODERLAND,

Attorney for Appellees,

2013 Smith Tower,

Seattle 4, Washington.

GEORGE R. WEST,

Attorney for Appellees,

2104 Northern Life Tower,

Seattle 4, Washington.

United States District Court, Western District of  
Washington, Northern Division

No. 1984

O. E. HAMBLETON and  
HARRIET ELIZABETH HAMBLETON,  
his wife,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,  
Defendant.

### MOTION TO DISMISS

Comes now the defendant, United States of America, and moves the Court for an order to dismiss the above-entitled cause on the following grounds and reasons:

1. That the Court does not have jurisdiction of the said cause pursuant to the provisions of Sections 931 and 943, Title 28, U.S.C. (Federal Tort Claims Act).

2. That the complaint fails to state a cause of action against the United States of America.

This motion is based on the files and records herein.

/s/ J. CHARLES DENNIS,  
United States Attorney.

/s/ FRANK PELLEGRINI,  
Assistant U.S. Attorney.

[Endorsed]: Filed Sept. 20, 1948.

[Title of District Court and Cause.]

ORDER DENYING MOTION TO DISMISS

This matter having come on before the undersigned Judge of the above-entitled Court on February 21, 1949, upon defendant's motion to dismiss; both parties being represented by counsel and the court having heard argument thereon and being fully advised in the premises, now therefore,

It Is Ordered that the motion to dismiss heretofore filed herein by the defendant, United States of America, be and hereby is denied.

Done In Open Court this 26th day of February, 1949.

/s/ JOHN C. BOWEN,  
Judge.

Presented by:

/s/ STANLEY C. SODERLAND,  
Attorney for Plaintiffs.

Approved as to Form:

/s/ FRANK PELLEGRINI,  
Asst. U.S. Attorney,  
Attorney for Defendant.

[Endorsed]: Filed Feb. 26, 1949.

[Title of District Court and Cause.]

## COURT'S DECISION ON MOTION

February 21, 1949.

The Court: Upon the authority of *Johnson, et al. vs. United States*, No. 11,948, decided November 5, 1948, by the U.S. Court of Appeals for the Ninth Circuit, and for the reasons (applicable also to the case at bar) stated by that Court in that case as follows:

“The Act (Federal Tort Claims Act) is a blanket renunciation of Government immunity to suit in the case of certain types of claims specifically enumerated therein \* \* \*. The policy which we think underlies and pervades the whole Act lends weight to the view that a claim of the general character of the one here involved is properly within the orbit of the Act and entitled to its procedural benefits unless it clearly appears that the ‘exception’ above noted bars it,” the motion to dismiss this case is denied. Here the action is for damages suffered by plaintiff as the result of an inordinate grilling to which plaintiff was subjected by an army sergeant in the course of a Government investigation being conducted by him. It is a tort cause of action not expressly excepted from the Federal Tort Claims Act as a nonsuable claim. Hence, the action is maintainable under the Act.

[Endorsed]: Filed Mar. 9, 1949.

[Title of District Court and Cause.]

## FIRST AMENDED COMPLAINT

For cause of action against the defendant, plaintiffs complain and allege as follows:

### I.

Plaintiffs are and at all times mentioned herein have been husband and wife, constituting a martial community under the laws of the State of Washington, residing in Seattle, Washington, in the territorial jurisdiction of the above-entitled court, to wit, the Northern Division of the Western District of Washington. The acts herein complained of all occurred within said Division and District. Jurisdiction of this action is conferred upon the above-entitled court by U.S.C.A., Title 2, section 931.

### II.

At all times mentioned herein William Anderson was a sergeant in the United States Army, acting as a CID agent, and under the jurisdiction of the Provost Marshal, Fort Lewis, Washington. All acts done, as alleged herein, by said William Anderson, were done on behalf of defendant United States of America, while acting within the scope of his office or employment and in the line of duty.

### III.

On or about January 20, 1948, said William Anderson called at the home of plaintiffs at 8312 35th Avenue, S.W., Seattle, Washington, while plaintiff

O. E. Hambleton was absent therefrom, contacted plaintiff Harriet Elizabeth Hambleton, in the course of and in order to further an investigation he was conducting, and did the following acts and made the following statements, unreasonably and intentionally subjecting her to the severe emotional distress which she suffered. Said William Anderson grilled plaintiff Harriet Elizabeth Hambleton for a period of about three and one-half hours on matters concerning which she had no knowledge and with which she had no connection. He stated to plaintiff Harriet Elizabeth Hambleton, among other things, that her husband, O. E. Hambleton had left her and was consorting with a redheaded woman, that her said husband was under arrest, being held on charges of grand larceny and drunken driving, and talked to her about her getting a divorce from her husband.

#### IV.

None of the statements made by said William Anderson, as above-alleged, were true. The statements made were of such a nature, and the continuous grilling carried on was of such a nature that William Anderson knew or should have known that the resulting emotional and mental distress was likely to result in illness and bodily harm to plaintiff Harriet Elizabeth Hambleton. This is particularly true in view of the fact that plaintiff Harriet Elizabeth Hambleton was at the time convalescing from a major operation and her resistance to any emotional stress was low, and William Anderson was informed of that fact and warned not to upset her.

## V.

As a direct and proximate result of the actions of said William Anderson as alleged herein, and of the severe emotional distress to which he subjected her, plaintiff Harriet Elizabeth Hambleton suffered injury as follows: She suffered a complete mental collapse so that she was insane for a period of over a month; during which period she was hospitalized and under a doctor's care and underwent severe treatment, including shock treatments, for her mental disorder. The injury caused is continuing and permanent since it left said plaintiff in a condition where the said mental disorder, although now alleviated, is likely to recur. The injury and necessary treatment caused to plaintiff Harriet Elizabeth Hambleton, and is likely to further cause in the future, severe anguish, pain and suffering. Said injuries were all to her damage in the sum of fifteen thousand dollars (\$15,000.00).

## IV.

As a direct and proximate result of the actions of said William Anderson as alleged herein, plaintiffs have incurred a doctor bill in the amount of \$270.00, hospital bills in the amount of \$280.52 for plaintiff Harriet Elizabeth Hambleton, and have been damaged in those amounts.

Wherefore, plaintiffs pray judgment against the defendant in the amount of fifteen thousand five hundred fifty dollars fifty two cents (\$15,550.52),



for costs of suit, and for a reasonable amount as attorneys fees.

/s/ STANLEY C. SODERLAND,  
Attorney for Plaintiffs.

State of Washington,  
County of King—ss.

O. E. Hambleton, being first duly sworn, on oath deposes and says: that he is one of the plaintiffs in the above-entitled action; that he has read the foregoing complaint; knows the contents thereof, and belives the same to be true.

/s/ O. E. HAMBLETON.

Subscribed and Sworn To before me this 4th day of May, 1949.

/s/ GEORGE R. WEST,  
Notary Public in and for the State of Washington,  
residing at Seattle.

Receipt of copy acknowledged.

[Endorsed]: Filed May 10, 1949.

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[Title of District Court and Cause.]

AMENDED ANSWER TO FIRST  
AMENDED COMPLAINT

Comes now the defendant, United States of America, and for amended answer to the First Amended Complaint of the plaintiffs, admits, denies and alleges as follows:



I.

The defendant denies the allegations of paragraph I.

II.

Answering paragraph II, defendant admits that William Anderson was a sergeant in the United States Army, acting as a CID agent under the jurisdiction of the Provost Marshal, Fort Lewis, and denies each and every other allegation in said paragraph.

III.

Answering paragraph III, defendant admits said William Anderson called at the home of the plaintiffs and denies each and every other allegation in said paragraph.

IV.

Defendant denies each and all of the allegations of paragraphs IV, V and VI, and specifically denies that plaintiffs have been damaged in the sum of \$15,550.52 or in any other sum whatsoever.

And by way of Further Answer and Affirmative Defenses the defendant alleges as follows:

First Defense

I.

That the cause of action herein arises out of assault, misrepresentation and deceit and that the court, pursuant to the provisions of the Federal Tort Claims Act (Subsection h, Section 2680, Title 28, U.S.C., Judiciary & Judicial Procedure) does not have jurisdiction thereof.

## Second Defense

## I.

That the Complaint herein fails to state a cause of action against the defendant.

## Third Defense

## I.

That the cause of action herein is based upon the abuse of discretion on the part of an employee of the Government while exercising a discretionary function on the part of a Federal agency and as such under the provisions of Section 2680, Title 28, U.S.C., Subsection (a), this Court does not have jurisdiction thereof.

Wherefore, having fully answered the First Amended Complaint herein, the defendant prays that this action be dismissed and that it recover its costs and disbursements herein to be taxed.

/s/ J. CHARLES DENNIS,  
United States Attorney.

/s/ VAUGHN E. EVANS,  
Assistant U.S. Attorney.

Receipt of copy acknowledged.

[Endorsed]: Filed Oct. 20, 1949. .

[Title of District Court and Cause.]

REPLY

Come now the plaintiffs by and through their attorney and in reply to the affirmative matter in the Answer of the defendant, admit, deny and allege as follows:

I.

Plaintiffs deny each and every matter and thing in the First Defense.

II.

Plaintiffs deny each and every matter and thing in the Second Defense.

Wherefore, having fully replied, plaintiffs pray that they be granted relief according to the prayer of their First Amended Complaint.

/s/ STANLEY C. SODERLAND,  
Attorney for Plaintiffs.

State of Washington,  
County of King—ss.

O. E. Hambleton, being first duly sworn, on oath deposes and says: That he is one of the plaintiffs in the above-entitled action; that he has read the foregoing Reply, knows the contents thereof and believes the same to be true.

/s/ O. E. HAMBLETON.

Subscribed and Sworn To before me this 18th day of June, 1949.

[Seal]      /s/ STANLEY C. SODERLAND  
Notary Public in and for the State of Washington,  
residing at Seattle.

Receipt of copy acknowledged.

[Endorsed]: Filed June 20, 1949.

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[Title of District Court and Cause.]

### COURT'S DECISION

The Court: Here the tort of Sergeant Anderson was not in exercising his discretion to interrogate or not to interrogate plaintiff, Mrs. Hambleton, but such tort was in the negligent and distressing manner in which Sergeant Anderson conducted the interrogation of Mrs. Hambleton.

The principle, in my opinion, is like that which applies to the malpractice of a surgeon, who may in his honest discretion operate or not operate, but if he does so, he must apply to such operation that professional skill which is ordinarily applied by reasonably competent surgeons. For his failure to do so, he is liable to the patient for any proximately resulting injuries and damages.

So here, even if Sergeant Anderson exercised discretion as to whether or not he should interrogate Mrs. Hambleton, he was, after deciding to do so, bound to apply reasonably prudent methods, use due

and ordinary care, and to refrain from excessive grilling and any and all other emotionally distressing methods of interrogation likely to injure her body or mind or endanger her health, but Sergeant Anderson did not act within that principle. On the contrary, he grilled Mrs. Hambleton for an unreasonably long time and put to her excessively repetitive questions concerning delicate personal subjects connected with her husband's marital and personal misconduct not related to the person whom Sergeant Anderson was investigating.

As a proximate result of Sergeant Anderson's excessive and unreasonable grilling of Mrs. Hambleton, she sustained a psychic trauma and psychosis putting her out of her mind and requiring that she have electric shock treatments and other hospital care at the Crown Hill Hospital for mental and nervous disorders. Fortunately she has recovered, due to the success of such shock treatments.

Thus, as a proximate and direct result of Sergeant Anderson's negligence and wrongful conduct, plaintiff Mrs. Hambleton has sustained physical and mental injuries and doctors' and hospital bills for which defendant United States of America, whose agent Sergeant Anderson was, is liable to plaintiffs.

For plaintiffs' general damages, the Court awards to them against defendant the total sum of \$5000 and for their special damages, plaintiff Mrs. Hambleton's doctor bill of \$270 in respect to Dr. Riley's services and \$280.52 for the Crown Hill Hospital bill.

[Title of District Court and Cause.]

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter having come regularly on for trial before the undersigned judge of the above-entitled court, trial therein having been had on the 4th day of November, 1949, and again on the 8th day of November, 1949, and argument of counsel having been heard on the 12th day of November, 1949, witnesses having been sworn and testified, the plaintiffs being present and represented by their attorneys, Stanley C. Soderland and George R. West, the defendant being represented by J. Charles Dennis, United States Attorney, and Vaughn E. Evans, Assistant United States Attorney, and the court being fully advised in the premises, now therefore makes the following

### Findings of Fact

#### I.

Plaintiffs are and at all itmes mentioned herein have been husband and wife, constituting a martial community under the laws of the State of Washington, residing in Seattle, Washington, in the territorial jurisdiction of the above-entitled court, to-wit, the Northern Division of the Western District of Washington. All the acts which the court finds to have been committed in connection with this matter occurred within said Division and District and within the territorial jurisdiction of this court.

II.

At all times pertinent to this matter William Anderson was a Sergeant in the United States Army, assigned as an agent of the Criminal Investigation Division. At the time said William Anderson committed the acts found herein, he was in the course of an investigation of a member of the Armed Forces and was acting within the scope of his official authority.

III.

On or about January 20, 1948, said William Anderson called at the home of plaintiffs at 8312-35th Avenue S.W., Seattle, Washington, while plaintiff O. E. Hambleton was absent therefrom and contacted plaintiff Harriet Elizabeth Hambleton in the course of an official investigation. Said William Hambleton interrogated plaintiff Harriet Elizabeth Hambleton for a period of approximately three and one-half hours and in doing so failed to use reasonably prudent methods and due care in conducting said interrogation. He grilled her excessively and for an unreasonable length of time, subjecting her to repetitive questions and statements on delicately personal subjects not directly connected with the investigation he was conducting and generally used emotionally distressing methods which were likely to injure her body or mind or endanger her health.

IV.

As a direct and proximate result of the above-mentioned unlawful conduct on the part of said



William Anderson, plaintiff Harriet Elizabeth Hambleton sustained physical and mental injuries and a mental and emotional trauma and psychosis resulting in her completely losing her mind and being confined in the Crown Hill Mental Hospital for a period of approximately one month and in said plaintiff being subjected to necessary shock treatments for her mental condition.

#### V.

As a direct and proximate result of the above-mentioned unlawful conduct of said William Anderson, plaintiffs incurred a doctor bill in the amount of \$270.00 and a bill at said Crown Hill Hospital in the amount of \$282.52 and sustained general damages in the amount of \$5,000.00.

#### VI.

A reasonable fee to be allowed the attorneys for plaintiffs payable out of the judgment herein is \$1,000.00.

From the foregoing Findings of Fact, the Court makes the following

#### Conclusions of Law

##### I.

This court has jurisdiction of the parties and subject matter of this action.

##### II.

The defendant, United States of America, is liable to the plaintiffs for the damages sustained



by the plaintiffs as set forth in the Findings and plaintiffs are entitled to judgment therefor against said defendant in the total amount of \$5,552.52 and for their costs herein.

III.

The amount set forth in the above Finding should be fixed as the attorneys' fee payable to the attorneys for the plaintiff out of the recovery herein.

Done in Open Court this 21st day of November, 1949.

/s/ JOHN C. BOWEN,  
District Judge.

Presented by:

/s/ STANLEY C. SODERLAND,  
One of the attorneys for  
plaintiffs.

[Endorsed]: Filed Nov. 21, 1949.

In the District Court of the United States for the  
Western District of Washington, Northern  
Division

No. 1984

O. E. HAMBLETON and HARRIET ELIZA-  
BETH HAMBLETON, His Wife,  
Plaintiffs,

vs.

UNITED STATES OF AMERICA,  
Defendant.

### JUDGMENT

This matter having come regularly on for trial before the undersigned judge of the above-entitled court, trial therein having been had on the 4th day of November, 1949, and again on the 8th day of November, 1949, and argument of counsel having been heard on the 12th day of November, 1949, witnesses having been sworn and testified, the plaintiffs being present and represented by their attorneys, Stanley C. Soderland and George R. West, the defendant being represented by J. Charles Dennis, United States Attorney, and Vaughn E. Evans, Assistant United States Attorney, and the court being fully advised in the premises, and having heretofore made its Findings of Fact and Conclusions of Law; now, therefore,

It Is Hereby Ordered, Adjudged and Decreed:

I.

Plaintiffs are hereby granted judgment against the defendant, United States of America, in the amount of \$5,552.52 and for their costs and disbursements herein to be taxed.

II.

The sum of \$1,000.00 shall be paid to Stanley C. Soderland and George R. West, as attorneys for the plaintiffs, out of said judgment.

Done in Open Court this 21st day of November, 1949.

/s/ JOHN C. BOWEN,  
District Judge.

Presented by:

/s/ STANLEY C. SODERLAND,  
One of the Attorneys for  
plaintiff.

[Entered in Civil Docket]: Nov. 21, 1949.

[Endorsed]: Filed Nov. 21, 1949.

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[Title of District Court and Cause.]

NOTICE OF EXCEPTION TO THE ENTRY OF  
FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND JUDGMENT

Comes now the defendant, United States of America, and respectfully requests that this Honorable Court allow the defendant an exception to the

entry of the Findings of Fact, Conclusions of Law and Judgment heretofore entered, for the following reasons:

1. There is insufficient evidence to support the Findings of Fact.

2. The Findings of Fact are contrary to the preponderance of the evidence.

3. The Conclusions of Law are contrary to the law governing the action herein.

4. The damages awarded the plaintiff are excessive and unsupported by the evidence.

5. The evidence does not state a cause of action in favor of the plaintiff.

6. There is no evidence to support the Finding of Fact that the plaintiff suffered any physical injury.

/s/ J. CHARLES DENNIS,  
United States Attorney,

/s/ VAUGHN E. EVANS,  
Assistant U. S. Attorney.

[Endorsed]: Filed Nov. 21, 1949.

---

[Title of District Court and Cause.]

### NOTICE OF APPEAL

To: O. E. Hambleton and Harriet Elizabeth Hambleton, his wife, Plaintiffs, and to Stanley C. Soderland and George R. West, Attorneys for Plaintiffs:

Notice is hereby given that the United States of America, defendant above named, does hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the final judgment entered in this action on November 21, 1949.

/s/ J. CHARLES DENNIS,  
United States Attorney.

/s/ VAUGHN E. EVANS,  
Asst. U. S. Attorney, Attorneys for United States  
of America, appellant.

Copy mailed.

[Endorsed]: Filed Dec. 29, 1949.

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[Title of District Court and Cause.]

## MOTION TO EXTEND TIME FOR DOCKET- ING RECORD ON APPEAL

Comes now the defendant, United States of America, and pursuant to Rule 73g, Federal Rules of Civil Procedure, moves the Court for an order extending the time to file with the United States Court of Appeals for the Ninth Circuit, the record on appeal in the above-entitled cause to and including Monday, March 27, 1950, which date is the 88th day from the date of filing the notice of appeal in the said cause.

This motion is based upon all the files, records and proceedings herein and upon the stipulation

filed herein and the affidavit of Vaughn E. Evans.

/s/ J. CHARLES DENNIS,  
United States Attorney,

/s/ VAUGHN E. EVANS,  
Assistant U. S. Attorney.

[Endorsed]: Filed Jan. 5, 1950.

---

[Title of District Court and Cause.]

### AFFIDAVIT OF VAUGHN E. EVANS

State of Washington,  
County of King—ss.

Vaughn E. Evans, being first sworn, upon oath deposes and says:

That he is one of the attorneys for the defendant in the above cause. That Notice of Appeal was filed December 29, 1949. That promptly thereafter affiant directed Patricia Stewart, reporter in the above-entitled cause, to prepare a transcript of the testimony and proceedings at the trial of this cause. That Patricia Stewart has advised the affiant that she cannot begin to prepare such transcript until after February 1, 1950, and that it will take approximately two to four weeks to prepare said transcript.

Affiant believes that approximately three to four weeks will be necessary after receipt of the transcript of testimony in order to prepare and transmit to the United States Court of Appeals for the

Ninth Circuit the record on appeal in the above-entitled cause. Since affiant has no guaranty the transcript of testimony will be prepared and received by March 1, 1950, affiant believes it is reasonably necessary that the time for docketing appeal in the Circuit Court of Appeals be extended to and including Monday, March 27, 1950.

/s/ VAUGHN E. EVANS.

Subscribed and sworn to before me this 4th day of Jan., 1950.

/s/ J. CHARLES DENNIS,  
Notary Public in and for the State of Washington,  
Residing at Tacoma.

Receipt of copy acknowledged.

[Endorsed]: Filed Jan. 5, 1950.

[Title of District Court and Cause.]

STIPULATION TO EXTEND TIME FOR  
DOCKETING RECORD ON APPEAL

It Is Hereby Stipulated by and between the parties in the above-entitled action, by and through respective counsel of record, that the time for docketing the record on appeal in the above cause with the United States Court of Appeals for the Ninth Circuit may be extended to and including Monday, March 27, 1950.

Dated at Seattle, Washington, this 5th day of January, 1950.

/s/ J. CHARLES DENNIS,  
United States Attorney,

/s/ VAUGHN E. EVANS,  
Assistant U. S. Attorney,  
Attorneys for Defendants.

/s/ GEORGE R. WEST,

/s/ STANLEY C. SODERLAND,  
Attorneys for Plaintiffs.

[Endorsed]: Filed Jan. 5, 1950.



[Title of District Court and Cause.]

ORDER EXTENDING TIME FOR  
DOCKETING RECORD ON APPEAL

On motion of the defendant, United States of America, and the stipulation of the parties, and the Court having considered the affidavit of Vaughn E. Evans in support of the motion, it is hereby,

Ordered that the time for docketing the record on appeal in this cause in the United States Court of Appeals for the Ninth Circuit be and it is hereby extended to and including Monday, March 27, 1950.

Done in Open Court this 5th day of January, 1950.

/s/ JOHN C. BOWEN,  
U. S. District Judge.

Presented by:

/s/ VAUGHN E. EVANS,  
Assistant U. S. Attorney.

The plaintiff hereby consents to the entry of the foregoing order.

/s/ GEORGE R. WEST,  
/s/ STANLEY C. SODERLAND,  
Attorneys for Plaintiffs.

[Endorsed]: Filed Jan. 5, 1950.

In the District Court of the United States for the  
Western District of Washington, Northern  
Division

No. 1984

O. E. HAMBLETON and HARRIET ELIZA-  
BETH HAMBLETON, His Wife,  
Plaintiffs,

vs.

UNITED STATES OF AMERICA,  
Defendant.

Before: The Honorable John C. Bowen,  
District Judge.

### ABSTRACT OF TESTIMONY

This case was called for trial on November 4,  
1949 at 10:00 a.m. George R. West and Stanley C.  
Soderland appeared as counsel for the plaintiffs.  
Vaughn E. Evans, Assistant United States At-  
torney, appeared as counsel for the defendant,  
United States of America.

\* \* \*

### TESTIMONY OF DR. FRANCIS E. FLAHERTY

#### Direct Examination

By Mr. West:

Q. Will you state your name, please?

A. Dr. Francis E. Flaherty.

Q. Where do you reside?

(Testimony of Dr. Francis E. Flaherty.)

A. 2105 East Highland Drive, Seattle.

Q. Where is your place of business?

A. In the Stimson Building, Seattle.

Q. What is your business or profession?

A. Surgeon.

Mr. Evans: We admit the Doctor's qualifications.

Mr. West: Very well.

Q. Doctor, will you state to the Court whether or not, prior to the 20th day of January, 1948, you had a patient by the name of Mrs. Harriet Elizabeth Hambleton?      A. Yes, I did.

Q. Mrs. Hambleton is in the courtroom, and I am sure you will testify with her permission. Will you state briefly to the Court the nature of the treatment, if any, that you gave to her?

A. I first saw Mrs. Hambleton as a patient quite some time prior to the operation which was more recently preceding the charge and complaint; in fact, has been known to me as a patient since April, 1945. It was in November of 1947 that I operated on Mrs. Hambleton in Providence Hospital for a serious stomach condition. The operation necessitated removal of three-fourths of the patient's stomach.

The Court: That year was 1947?

The Witness: It was November 14, 1947, Your Honor.

Q. At that time, can you state whether or not the stomach ailment for which you operated on her had any after effect in the nature of mental dis-

(Testimony of Dr. Francis E. Flaherty.)

turbance? Is it the kind of thing which affects the mind, or does it affect the stomach?

A. I would not say it affects the mind. It naturally affected her general physical condition. She was somewhat weakened, and her period of convalescence, as is usual in many of these cases, would be expected to be somewhat prolonged.

Q. Following the operation on November 14, 1947, did you thereafter have occasion to talk to Mrs. Hambleton at your office?

A. Yes, I did.

Q. Was she still your patient at that time?

A. Yes, sir.

Q. During your interviews with her and your general observation of her, would you state that she showed any mental disturbance prior to January 20, 1948?

A. I would say that Mrs. Hambleton was a person of some nervous temperament, but I had never observed any abnormal mental reactions. I would say she was perhaps more nervous than a number of people, maybe more nervous than the average; in fact, I had considered that that might have some bearing on originally the cause of the ulcer for which she was operated, but never had observed any abnormal or psychotic tendencies whatsoever.

Q. Did you have occasion to interview Mrs. Hambleton on or after January 20, 1948?

A. Yes, I did.

Q. Can you place that in point of time? How

(Testimony of Dr. Francis E. Flaherty.)

soon after January 20 did you have occasion to talk to her the first time?

A. January 28, 1948.

Q. State to the Court what you observed in her manner and demeanor and health at that time.

A. Mrs. Hambleton presented herself as a very upset, very disoriented person who was difficult to manage, difficult to talk to, and actually resisted attempts to treat her or lay hands on her or to make an examination at that time. I would say she was definitely suffering from a mentally disturbed condition.

Q. Did you treat her at that time for this mental or nervous condition?

A. I did not treat her for the mental condition.

Q. Did you prescribe any treatment for her at that time?

A. I gave her a sort of Vitamin B, theamin chloride and B complex.

The Court: Were the theamin chloride and B complex the ingredients of the "sort of Vitamin B"?

The Witness: Yes, Your Honor.

Q. What would be the medical purpose in giving the sort of Vitamin B complex?

A. I had determined from questioning Mrs. Hambleton that she had not been eating, that she had gone almost without food or water. She had a fear of eating, felt that everything she had taken was doped or had been drugged. I tried to induce her to take something in the office, which she re-

(Testimony of Dr. Francis E. Flaherty.)

fused. I felt the Vitamin B would help in a certain slight measure to sustain or make up a deficiency because of lack of proper nourishment by mouth.

Q. In the course of your interview with her on the 28th or thereafter, did you or did you not make any suggestion to her that she seek contact with a psychiatrist or person dealing in mental disorders?

A. I recommended and made arrangements for her to see a psychiatrist.

Q. Do you recall his name?

A. Dr. John Riley.

Mr. West: If Your Honor please, that concludes the direct examination of Dr. Flaherty.

The Court: You may cross-examine.

#### Cross-Examination

By Mr. Evans:

Q. As I understand, Mrs. Hambleton had been your patient since sometime in 1945?

A. Yes, sir.

Q. Was that in relation to the stomach condition that later resulted in an operation?

A. Not at the beginning of our relationship. It was later in the course of subsequent treatments studied and of course treated.

Q. About how long had you been studying her stomach condition prior to her operation?

A. A matter of perhaps several months.

Q. I have heard that this operation was for a peptic ulcer, is that true, or is it something else?

(Testimony of Dr. Francis E. Flaherty.)

A. No, that is true, I might say a duodenal ulcer, an ulcer of the duodenum, which is also called a peptic ulcer. That locates it anatomically in the duodenum, rather than in the stomach.

Q. In the course of your study, did you make any attempt to determine the cause of her condition?

A. Yes. However, in the problem of ulcers, the cause in most instances being so vague, it is difficult or impractical without being extremely meticulous in tracking these things down, and then you very seldom ever do pin down a specific cause. Most of them are unspecific as far as cause or etiology is concerned.

Q. Would emotional stress in any way cause an ulcer?

A. It may. I would hesitate to say it would definitely cause. It is considered a potential cause, or it would undoubtedly aggravate an ulcer if one were present.

Q. It would aggravate an ulcer condition?

A. It may.

Q. In the course of your study of Mrs. Hambleton's case, did you come upon anything which would indicate that Mrs. Hambleton was under any emotional stress?

A. I don't believe there was any serious or pertinent factor. She had mentioned on one or two occasions being nervous about family problems, or trouble with her husband.



(Testimony of Dr. Francis E. Flaherty.)

Q. Did she indicate she was having trouble with her husband?

A. No, she did not indicate trouble with her husband, but she indicated that occasionally his having used alcohol had caused her some anxiety and some nervousness.

Q. Would, in your opinion, a husband's excessive use of alcohol cause sufficient emotional distress on the part of the wife to aggravate her stomach condition?

A. I would simply say it technically could be possible, I would hesitate to say for sure, or have to say that I felt it was exactly the case in this instance.

Q. Did she relate to you any of the circumstances which, as I understand, she told you were worrying her?

A. She did relate the fact that her husband had been in an auto accident. I don't remember the exact location of this accident, some place in——

Q. Was that prior to her operation?

A. No, that was subsequent to her operation.

Q. She made no mention to you of his being in an accident prior to the operation? A. No.

Q. Had she made any mention to you of his excessive drinking prior to the operation?

A. I don't recall that she did.

Q. Perhaps I misunderstood you. Do I understand that prior to the operation, you had no knowledge or information of any trouble with or about her husband that might aggravate her stomach



(Testimony of Dr. Francis E. Flaherty.)

condition?           A. No, I did not.

Q. After the operation, as I understand, you gained some information to that effect, is that correct?           A. Yes.

Q. Do you recall about the time that you received that information?

A. It was late in December.

Q. Do you have your records with you?

A. Yes, I have.

Q. Would they assist you in any manner in determining the approximate dates when you gained such information?

A. If I may use them to refresh my memory.

Mr. Evans: Is that agreeable?

Mr. West: That is agreeable.

The Witness: December 31, 1947.

Q. Do your records indicate the condition of Mrs. Hambleton after the operation progressively as of the times you saw her?           A. Yes, sir.

Q. When was the first time after the operation that your records reveal that you talked to Mrs. Hambleton or gained some knowledge of her condition?

A. I had seen her several times following her discharge from the hospital.

Q. Were those hospital or office calls?

A. Office calls.

The Court: If you can, give the date of the first one, Doctor.

The Witness: The first office call was December 8.

(Testimony of Dr. Francis E. Flaherty.)

The Court: Of what year?

The Witness: In 1947, Your Honor.

Q. What do your records indicate as to her condition at that time?

A. That her general condition was excellent; that she still was having a little stomach discomfort which required careful watching of her diet and emphasis on certain recommendations as to treatment and dietary program.

Q. At that time, was she taking medicine in any form?      A. Yes, she was.

Q. When was the next time that you saw her?

A. On December 31, 1947.

Q. What was her condition at that time?

A. That she still had a persistence of indigestion and some gas. Though improved, it still required and necessitated the use of medication.

Q. On December 8, as I understand, you classified her condition as excellent. How would you classify it on December 31?

A. Physically, I think, still excellent or very good.

Q. Still requiring some medication?

A. Yes.

Q. Can you state just precisely the nature of that medication? Was it something that had to be continuous, or was it an occasional dose of something, or what was it?

A. It was prescribed at regular intervals during the day. She was taking an antacid and also a

(Testimony of Dr. Francis E. Flaherty.)

Vitamin C, given to promote healing and to increase her resistance.

Q. At that time, as I understand, you learned something of some emotional disturbance due to something in regard to her husband?

A. Yes, I did elicit the fact that she was a bit worried and had been worried about her husband's drinking.

The Court: At this time, we will take a short recess of about ten minutes.

(Recess.)

The Court: You may resume the examination.

Q. I believe the last question was in regard to your learning on December 31, 1947, from Mrs. Hambleton that there was some emotional disturbance due to some activities of her husband. Do you recall what it was that you learned at that time?

A. That her husband had apparently gone on occasional bouts of drinking, and this had concerned her somewhat.

Q. Did she indicate to you that that was a frequent occurrence, or something that had just come up recently?

A. I don't believe that was mentioned. I don't believe I asked her, as a matter of fact.

Q. In the course of your treatment of Mrs. Hambleton, would that have been a factor about which you would have concerned yourself?

A. Not greatly, although I did advise her to try and compose herself, as far as any nervous

(Testimony of Dr. Francis E. Flaherty.)

dispositions are concerned, in that they may have accounted for some of her indigestion and occasionally a little bit of her acid reaction of her stomach.

Q. When was the next occasion that you saw Mrs. Hambleton?

A. It was on the 19th of January, 1948.

Q. What do your records indicate was her condition at that time?

A. That she was quite nervous. She had, I believe, just received word of her husband being involved in an accident in Nevada, and her impression was that he was in a critical condition. I did prescribe a sedative.

Q. Do your records indicate anything further that you might elaborate on, the results of that interview?

A. No. It was a very short note at that time.

Q. Then I believe you have already gone into the interview on January 28, 1948. Is there anything further in regard to that interview that you can elaborate upon other than what you have already testified to?

A. Other than the patient's story, which would, I suppose, be hearsay.

Q. She gave you a story at that time?

A. Yes, sir.

The Court: If it was considered by you as a means of your prescribing treatment to her at that time it would not be excluded on the ground of

(Testimony of Dr. Francis E. Flaherty.)

hearsay. Although it might be hearsay, it would be admissible hearsay.

Mr. Soderland: If Your Honor please, I think he indicated he did not attempt to treat her for the mental condition in any way, so unless it had something to do with the treatment which he did give her——

The Court: Yes. You are permitted to answer the question by saying what she told you, if you did actually consider that in prescribing treatment for her at that time.

The Witness: I did consider it, Your Honor.

Q. Then will you tell us what it is, what you have in mind?

A. At the time the patient came in to me, she came in with rather an incoherent and disconnected story about—at first she stated she had been doped by, as she referred to the gentleman, a certain Lt. Williams, who had attempted to blackmail her, as she stated, and her husband. She felt as a result of a very unfortunate episode and meeting with him that she was doped, she couldn't eat, she felt everything that she ate was doped or poisoned, and even to the point where she was refusing to drink water.

She stated further that—she rambled in a manner which was evidence that she was having hallucinations—she talked about a syndicate of Communists who were out to get her husband and herself. She mentioned Bing Crosby and Bob Hope as being members of this syndicate, and felt that

(Testimony of Dr. Francis E. Flaherty.)

everybody was against her, and she was afraid to trust anyone, which I witnessed myself when I attempted to give her or offer her water in the office. That is the summary of the story, in brief.

Q. As I understand, at that time, after the treatment which you heretofore described, you turned her over to Dr. Riley? A. Yes, sir.

Q. At the time Mrs. Hambleton was in your office on January 28, that was the first time she had been back, as I understand, since January 19?

A. Yes.

Q. Was she alone or accompanied by someone?

A. She was accompanied by her mother.

Q. Were any of the details which you have just related as to her condition given you by her mother, or by Mrs. Hambleton?

A. No, these were given by Mrs. Hambleton herself.

Q. Was any information given you by her mother in an attempt to assist you in your diagnosis of her condition?

A. Only perhaps a brief preliminary statement that she was very mentally disturbed, and she wanted me to see her.

Q. Did you gain any information as to how long she had been in that condition?

A. No, I did not question her mother on that point, and I could not determine from the patient, of course. Having seen her a very short time prior, I assumed it was only a matter of days, however.

Q. Did you ever receive a report from Dr.



(Testimony of Dr. Francis E. Flaherty.)

Riley as to her condition, the results of this treatment?      A. Yes, I did.

Q. Do you have that report with you?

A. Yes, sir.

Mr. Evans: May we have it marked for identification, please?

(Doctor's report marked Defendant's Exhibit A-1 for Identification.)

Q. Was that letter received by you in your regular and usual course of business?

A. Yes, sir.

Q. Does it pertain to treatment given by another doctor to one of your patients?

A. Yes, it does.

Mr. Evans: I believe it would be proper to offer Defendant's Exhibit A-1, Your Honor.

Mr. West: No objection.

The Court: Defendant's Exhibit A-1 is now admitted.

(Defendant's Exhibit A-1 received in evidence.)

Q. Since January 28, 1948, have you treated Mrs. Hambleton on any occasion?

A. Yes, I have.

Q. Have those treatments, your work in that regard, had anything to do with her stomach condition or her mental condition or has it been something entirely foreign to that?

A. It has been for possibly not a directly re-

(Testimony of Dr. Francis E. Flaherty.)

lated situation, but her being somewhat run down and slightly nervous and slightly anemic.

Q. You were treating her for a nervous condition?

A. I did prescribe a small dose of sedative.

Q. Can you give the approximate date of that?

A. That was on the 4th of March, 1949.

Q. If I understand you correctly, prior to the operation, nothing had come to your attention to indicate any trouble between Mr. and Mrs. Hambleton?

A. That is correct.

Q. Nor was there any nervous or emotional distress on the part of Mrs. Hambleton as a result of any of her husband's activities, so far as you were aware?

A. That's right.

Q. Prior to January 28, 1948, had you any occasion to hear Mrs. Hambleton make any allegations of anybody picking on her or trying to poison her or in any manner to indicate that she was fearful of anyone?

A. Not prior to that time.

Q. As I understand, you did not treat Mrs. Hambleton for any mental disorders?

A. I did not.

Q. Do you feel you are qualified to testify on mental disorders?

A. No, I don't believe I would qualify, or I would feel competent. I would recognize one, but I wouldn't make any attempt to evaluate it or to treat it.



Mr. Evans: That is all.

Mr. West: No redirect.

\* \* \*

## TESTIMONY OF HARRIET ELIZABETH HAMBLETON

Mrs. Harriet Elizabeth Hambleton testified as follows:

That she is the wife of Oliver E. Hambleton, has three children by this marriage, ages 13, 11 and 8; that she and her husband live together at 8312 85th S. W. in the City of Seattle. On January 20, 1948, a Mr. Anderson called and said he wanted to come out to Mrs. Hambleton's house and talk to her. This telephone call was made at approximately 3:00 in the afternoon. Mr. Anderson arrived at the house some time later, the exact time Mrs. Hambleton could not fix. Shortly after Mr. Anderson arrived, Mrs. Hambleton's mother, Mrs. H. P. Raskin, came to the house.

When Mr. Anderson arrived, he displayed a badge to Mrs. Hambleton but she did not pay much attention to it, just figuring that he had the authority to be there. About the first question which Mr. Anderson asked Mrs. Hambleton was who her attorney was. Mrs. Hambleton told him she did not have an attorney. Mr. Anderson asked, "Well, you are suing for divorce aren't you?" and Mrs. Hambleton replied, "Why no, whatever gave you that idea?" Mr. Anderson then stated, "Well, I have some information that would be very benefit-

(Testimony of Harriet E. Hambleton.)

ing to you in obtaining your divorce and you have some information that would help me." Mrs. Hambleton then testified that she was not contemplating a divorce at that time and so stated to Mr. Anderson. Mr. Anderson again stated he had information which would be helpful to Mrs. Hambleton in obtaining a divorce. Mr. Anderson stated, "You would probably be interested in knowing that your husband is being held on grand larceny charges, or wanted by the Government."

Q. Did he explain how your husband got to Nevada?

A. No, he didn't. He didn't know about my husband being gone at first. I think he was more or less trying to find out where my husband was when he came in, and then he asked me if I knew where he was, and I said, "Yes, I know where he is" and he wanted me to tell him, and I said, "I have to be careful who I tell where my husband is because of the type of business he is in."

\* \* \*

Mr. Hambleton was a private investigator. Mrs. Hambleton acted as Mr. Hambleton's secretary and took care of his business at home pertaining to his work. Mrs. Hambleton considered her husband's business and whereabouts as confidential.

Q. What else did he say?

A. After he told me that he was being held, I asked him, I said, "Did you know that my husband had been in an accident?" and I don't really believe he knew, or maybe he had heard something of it,

(Testimony of Harriet E. Hambleton.)

but he says, "Oh, yes, we know all about that." But then he went on to say that they were interested in locating him, and he asked me if I knew the fellow that left with my husband on his trip, and I said, "Yes, I do" and he said, "Is he a tall, dark fellow?" and I said, "No, he isn't. He is very slight." He said, "Are you sure that he wasn't a tall, dark fellow?" and I said, "No." I said, "I should know who he left with."

Then he asked me how long I had known the fellow he left with, and I said, "We have known him for a good number of years." He said, "That is this Lt. Bennett," and I said, "I don't know whom you are speaking of," and he says, "You know a Lt. Bennett. He went by the name of Crowther or Crowley." I said, "Well, I don't know any Lt. Bennett, but I do know a Crowther. I have heard my husband speak of him," and he said, "He is the one that left with your husband." I said, "No, he didn't leave with my husband, because I know the fellow that did." He said, "Well, how long have you known this fellow?" and he was speaking of the other party and I was speaking of the one that left with my husband. He said, "Have you ever visited in his home?" I said "No" and he wanted to know how well I knew this Bennett, and I told him that I had only met the fellow once, if he was referring to Crowther, that I didn't know him, had never visited with him.

Then he said, "You knew your husband left here

(Testimony of Harriet E. Hambleton.)

with a redheaded woman, did you not?" and I said, "No" and he said "Well, he did." He said, "He got in touch with her, he didn't want you to know it, and he got in touch with her by advertising in the newspaper, 'an investigator travelling south or east,' I don't know which they call it from here, but he made contact with her to meet him, and he left here with her." I said, "I don't believe that's true," and he said, "Yes, he knew two women at Bremerton, or some place."

Then he got up and went to the phone and said, "I'll call this redheaded woman"—"I'll call this woman," rather, and he went to the phone and called a number of clients of my husband that as far as I knew had no bearing on the case. But when he made that phone call, I figured he really was a Government man, an FBI man checking, and that he knew all of our business. Then after that when he questioned me he kept on about the Lt. Bennett, and kept saying, "Well, you must know him," or "You do know him."

Q. Would you say that he was or was not very persistent in this cross-examination or examination of you?

A. I would say he was, for the fact that he was there so long, and covered such few subjects, that he kept pounding the same one at me over and over, and then he would go back to this divorce, that "You can now so and so" and he would refer to things, after I told him I wasn't getting a divorce he would refer back to things.

(Testimony of Harriet E. Hambleton.)

After I would say I did not know Lt. Bennett, he would come back and say, "You visited with him in his home," and then he would get me so confused that—as I say, my mother was down there at the time and he upset me to the point that I asked her for medicine. Then he would ask me about—when he made this phone call to this woman's house, that he found out then that the one he had in mind that my husband left with had been gone for a couple of months, she was from South Carolina, or had been gone a while.

Q. Did I understand you to say you found out that the woman your husband left with was someone else?

A. No, the one that he figured might know something—how can I explain this—after him saying he had left with a redheaded woman, he said he would check on that and he went to the phone and called a client of my husband's whom I knew to be redheaded, and he asked her about someone that was there with her, and she said, from the conversation she had told him that this party had been gone several months previous to my husband's leaving, that she had gone back to some place in the South, either South Carolina or North Carolina some place, so he said, "Well, that is strange. She has been gone several months, so she isn't the one he left with." He said, "I had better check on that redhead deal a little more and let you know, and I'll call you back Thursday."



(Testimony of Harriet E. Hambleton.)

Q. You mentioned that you had asked your mother to get some medicine for you. Did she?

A. Yes, she got me some medicine.

Q. Did you take it, or not?

A. Yes, I did. He said, "What are you taking the medicine for," and I said, "You knew I had been operated on," and he says, "Oh, yes, I knew you had an operation, but I didn't know what for." So mother handed me the medicine, and he said, "Is that what you take for your ulcers?" He said, "I have ulcers, too, but that isn't what I take." I said, "What do you take?" and he said, "Well, you know what I take," and I said, "If you think this is caused from drinking, you are wrong; in fact, I don't drink. This ulcer was caused—as I said, that is a misconstrued idea people have it is caused from drinking. Lots of times they are not caused from drinking," and that ended that, except he immediately started it again, asked me about Lt. Bennett.

Q. After he knew that you were ill or taking medicine, you say he still persisted in asking you questions?

A. Yes, he did. That wasn't too long after he arrived that I took that. He was there then for several hours after that, and mostly the conversation was the same grilling or what you might term third degree, or whatever it is that they keep asking you the same things over and over to see if you are going to change what you are saying. I had told him once so it more or less made me angry that he should

(Testimony of Harriet E. Hambleton.)

doubt my veracity on the things I had already told him.

Q. Do you recall the circumstances under which he left, or why he left?

A. Well, I guess that he had just found out that he wasn't going to get anywhere.

Q. Do you recall if your mother had any conversation with him or not?

A. Well, at one time during the conversation I know Mother told him that he had asked me enough questions, and she said, "I think that she has told you what she knows," or words to that effect. She says, "I don't think you should upset her any more, because she has just had this serious operation, and I think she should take it easy or rest for a while."

Q. After your mother had asked him to leave, or indicated that the conversation should terminate, did he still stay or not?

A. Yes, that was along about the time I took the medicine that she said that.

Q. Did he persist in this continuous grilling you have referred to?      A. Yes, sir.

Q. How long did this interrogation of you continue, to the best of your recollection? Was it a matter of minutes or hours, to the best of your recollection?

A. No, I said before in the neighborhood of four hours, and he only covered a few subjects such as we have mentioned here, and those questions were over and over again. I mean they were just asked

(Testimony of Harriet E. Hambleton.)

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(Testimony of Harriet E. Hambleton.)

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(Testimony of Harriet E. Hambleton.)

over and over again all during that time, but I might add that my husband called me while Mr. Anderson was there. My husband called me from Lovelock, Nevada, I believe it is, and asked me if I would check on the insurance of the car to see if we would have any way of paying for the accident.

I said to him, "Was the fellow driving your car a redhead?" It seems a hitchhiker had wrecked my husband's car, it wasn't he himself that had done it, and so putting the data in my mind, I asked him if the driver of the car was a redhead. He says, "Well, no, in fact, I don't know what color hair he has. I guess he is a brunette." He said, "Why?" I says, "I just wondered." When I got off the phone, Mr. Anderson says, "I'm glad you worded it that way and didn't mention the woman to him."

Q. Pardon me. Who said that to you?

A. Mr. Anderson said this after my telephone conversation with my husband.

Q. And you have just testified now that Mr. Anderson was present during your telephone conversation you had with your husband, is that true?

A. Yes, sir. He said, "I'm glad that you didn't say 'redheaded woman' and asked if the driver was a redhead, and not mentioned the woman to him, because I want to check on that some more."

I said, "Well, he wanted me to"—he asked me what the telephone call was concerning, and I said, "He wanted me to check on the insurance for the

(Testimony of Harriet E. Hambleton.)

car." He said, "He wants to get that money from the insurance company to use to pay his way out of jail," or to make bond, or whatever you do, and so naturally when he said that, it began to make a doubt there, thinking, well, perhaps he did want the money for bond, in my confused state. He said, "Yes, that's why your husband is calling to check on that money, for that purpose, because he is being held on grand larceny charges in Nevada," so I asked him what grand larceny was.

Q. Do you now know whether or not these things stated by Mr. Anderson to you were true or not?

A. Yes, sir, I know that they are not true.

Q. They are not true. Do you know if Mr. Anderson is in the courtroom?

A. Yes, he is.

\* \* \*

Mrs. Hambleton believed that Mr. Hambleton was calling her from a hospital, believing that he had some injury as a result of the automobile accident. Prior to this time, Mrs. Hambleton had talked long distance with the doctors and nurses of the hospital and knew that Mr. Hambleton was not in bad physical shape.

Q. After Mr. Anderson left, can you recall any of the circumstances which took place, any of the things that you did, particularly anything as a result of his having been there?

A. Yes, I have recollections of a few things that happened, but I haven't any clear view of all the time after Mr. Anderson left that evening. My

(Testimony of Harriet E. Hambleton.)

mother and stepfather came down to see how I was, and I told them that I had a job to do, that I had to check papers, and I spent most of the night, or all the night checking back through the papers I had. I had saved them and I was looking for this ad that my husband was supposed to have put in the paper to contact someone, so I spent most of the night looking for that ad. Then I don't believe I found it until the next day.

Q. You did find it?

A. I didn't find the ad until the next day, but the next day, the ad that I found was in that morning's paper, and there wasn't anything back three or four weeks before that, at the time my husband left. That was that day's paper, the advertisement in it that he had referred to.

\* \* \*

She stated that she knew a Lt. Williams and his wife but she did not recall going over to their residence at any time after Mr. Anderson's call.

Q. Are there any other circumstances that you can tell the Court what transpired relative to yourself during the next two or three weeks or month following the interview you had with Mr. Anderson?

A. No, sir, not after the last recollection, was on a Sunday.

\* \* \*

In describing Mr. Anderson's manner, the witness stated:

A. To me, it was insulting all the way through

(Testimony of Harriet E. Hambleton.)

because he kept asking me things that I would answer, and I don't like and I was insulted for the fact that he would keep asking me things over and over, and he had a cynical attitude, especially after I told him that I had had a major operation and what it was for. He more or less let me know that he thought it was from drinking. That was insulting, too.

\* \* \*

Mrs. Hambleton stated the last she could remember was on the Sunday following the Tuesday which Mr. Anderson was present at her house. On that day, she went to find a man by the name of Eddy Golder who had worked with her husband.

#### Cross-Examination

On cross-examination, Mrs. Hambleton testified as follows:

That Mr. Anderson arrived at her house in the neighborhood of 3:30 to 4:00, believing it was closer to 3:00. It was daylight at the time he arrived. All three of her children were at home at the time he arrived. When Mr. Anderson called on the telephone, he stated he was at the naval station and that she directed him from the naval station to her home. It took him longer than she thought it should if he were driving from the naval station. Mrs. Hambleton stated that Mr. Anderson left after dark and she assumed it was close to 8:00. It was approximately 10 or 15 minutes after

(Testimony of Harriet E. Hambleton.)

Mr. Anderson arrived when her mother, Mrs. Raskin arrived.

When Mr. Anderson called he stated that he wanted to talk to Mrs. Hambleton about her husband. Mrs. Hambleton understood from this telephone call that Mr. Anderson was with the army. When Mr. Anderson arrived, he was in civilian clothes.

Witness testified that she had never been separated from her husband. Her husband had been drinking off and on ever since she had known him, even before they were married but that it never caused her any mental distress. At the time Mr. Anderson called upon her, she was anxious as to her husband's condition as a result of the accident but that she had already heard from the nurse and her husband and knew that his condition was satisfactory. She was, however worried about her husband but not to any extent. She further stated she did not like her husband's drinking.

A few months prior to Mrs. Hambleton's operation, her husband was involved in another accident in which he was not hurt.

The witness testified:

Q. During the time that Mr. Anderson was there, did you receive another phone call?

A. Yes, I did.

Q. Do you recall who that call was from?

A. It was from a lady, another former client of his, that I would rather not give her name because that is a strictly confidential case, too, but she called



(Testimony of Harriet E. Hambleton.)

me and said that this party had been to see her, this Mr. Anderson had been to see her, too, and that she had warned him that I had just got out of the hospital with a serious operation. She said that while he was there.

Q. What is this lady's name?

A. I would rather not say, sir.

The Court: She asked, in effect, to be excused from disclosing the name for the reason stated by her, and I would be inclined to respect that request, Mr. Evans.

Mr. West: I would so move, your Honor. I do not see that it is material. She has given the information; it doesn't make any difference who she talked to.

Mr. Evans: She stated this woman told her.

The Court: You have a right to object to her stating hearsay, and the Court will not require her to disclose that woman's name.

Mr. Evans: This is the point I am making, I believe we have a right to know who this woman was to determine the truth or falsity of this statement.

The Court: You did not have to have her state the hearsay just for the purpose of building up the opportunity of having her disclose the name.

Mr. Evans: I didn't know what she was going to say.

The Court: I think it is obvious. The objection is overruled and the request that she be relieved

(Testimony of Harriet E. Hambleton.)

from obligation to disclose the name is granted. She need not disclose the name.

Mr. Evans: May be have an exception?

The Court: You may. Let an exception be noted. In the future, in a similar situation, since she says her husband's occupation was concerning confidential relationships with his clients, you may expect similar rulings, so I ask you to have it in mind in your indulgence of hearsay.

\* \* \*

When asked to describe what she meant by being grilled, the witness stated as follows:

A. Well, sir, I have never been grilled before, but my idea of grilling and third degree is when people keep asking you things over and over again, after you have told them once that a thing is a certain way, and they take up nearly four hours asking you and repeating those same three or four questions, I would consider that a grilling, or what I have seen of third degree, or read of third degree, rather, I haven't seen any, but what I have read of it in most of the books, third degree means grilling a person or asking them over and over things in such a manner that it gets them upset to the point of making them say something different, or what they want you to say.

Q. Did you consider you were under arrest at this time?      A. No, sir.

Q. Did Mr. Anderson make any offer or threat of force?



(Testimony of Harriet E. Hambleton.)

A. No, there was no force. I don't know what you would term a threat. There was no threat on my life, but it was threatening. I took it as such because of the lies, what I thought were lies involved, and the manner in which he went about finding out. It seems to me that a person could get information without just keep dogging a person.

Q. Did he do anything or say anything that put you in fear of any bodily harm?

A. No bodily harm, no, sir.

Q. Did he make any threats that he was going to arrest you?                    A. No, sir.

Q. Did he do anything that would lead you to believe that he would use force or had the means of using any force to obtain any information from you?

A. Well, I can answer that yes, for the simple reason he knew so much about our business that I was afraid he would bring pressure through what he knew of our files, because they were in strict confidence, and when I figured that he knew what was in those files that were supposed to be confidential, I figured that he could use those over us for information. I figured that a Government man could do that if it became necessary to get information from someone.

Q. What I am trying to determine is were you put in any fear of any bodily harm whatever? Was there any threat of force or violence?

A. No, definitely.

Q. Did you object to answering these questions?

(Testimony of Harriet E. Hambleton.)

A. I didn't, because I was trying to find out what he was getting at. I wanted to know what he had on his mind, what he was getting at, why the charge of grand larceny, what my husband had done. Naturally, I wanted to find out what he had done, because it was such a shock to me, these things that he had accused him of.

Q. Just what did he accuse your husband of?

A. Do I have to go through that again? He told me he was held on grand larceny charges in Nevada. He told me he had left the state with a redheaded woman, or had contacted one to leave with him. He wanted to know if I knew he had left here with a redheaded woman, but it wasn't so much what he said—it was that, too, but he just kept on and on at me for so long.

Q. You say on and on at you?

A. He kept asking me over and over if I knew Lt. Bennett, and I kept telling him no, and he kept asking me again, until finally we decided the party he was talking about had a different name that I knew him by.

Q. Did you finally decide you did know Lt. Bennett?

A. I finally decided I had met this Crowther once, and once only.

Q. Was it some little time before the two of you finally determined that you were talking about the same person but by a different name?

A. Yes. Well, it didn't take too long after he said that his name had been changed.

(Testimony of Harriet E. Hambleton.)

Q. Then you decided that you were both talking about the same person, is that correct?

A. Yes.

Q. Then you decided that you were acquainted with Lt. Bennett, or this other name that you speak of, as well as his wife, is that correct?

A. No.

Q. You don't know his wife at all?

A. I do not. That is why he kept asking me if I had visited this party's home, and I told him no, and he asked me if I knew where he lived, and I said, "I understand he lives in a project out in this neighborhood, on Delridge, or whatever project that is over there," and he said, "Then you do know where he lives." I said, "No, I don't, merely my husband told me that he lived there or was going to move there or some such thing, so as far as visiting in his home, I never did," and he kept wanting me to admit that I knew him and had visited in his home and knew that he had this and that, and I kept denying it, and then he would go back to that again and again.

Q. Did you ever object to answering these questions and carrying on this conversation with him?

A. Object? No.

Mr. West: I think she answered that.

The Witness: I wanted to find out what charges were against my husband, what he had done.

Q. What I am trying to get at, did you ever object to him asking these questions, or were you willing to carry on the conversation?

(Testimony of Harriet E. Hambleton.)

A. Yes, but my mother wasn't.

Q. You were, but your mother wasn't?

A. She told him that she thought that he had talked to me long enough. No, she didn't say that. She said, "I think that she is upset, and that she has answered enough questions."

Q. You were anxious to get information from Mr. Anderson, were you not, as to what he knew and what he had?

A. Yes, sir, I wanted to know just what my husband had done, just what the deal was.

Q. You were asking him about as many questions as he was asking you, weren't you?

A. No, sir, not as many.

Q. You were questioning him, though, weren't you?

A. I just asked—no, I can't say what I asked. I was probably asking him all the time where he got his information and that I didn't like to divulge any information because it might be detrimental to my husband.

\* \* \*

The witness also testified:

Q. Isn't it a fact that you had heard from other sources that there was some question by the authorities in Nevada as to whether or not he was the owner of the car he was driving?

A. No, sir. No, I figured he was in our car.

Q. Well, hadn't you received a call from some local authorities inquiring as to whether or not the

(Testimony of Harriet E. Hambleton.)

car he was driving was in fact his own car or somebody else's?

A. I really don't remember whether I had a call or not. I had so many calls back and forth, I really don't remember whether I had a call stating that or not.

Q. Had you had any information prior to that time that the authorities in Nevada were concerned about whether or not the car your husband was driving was a stolen car?

A. Not that I recall.

Q. You don't recall anything about that at all?

A. I will just have to think about that. It has been so long that it seems that—you see, it is pretty hard for me to remember back a lot of things, because after I came out of the hospital, everything had to come back to me a little at a time, because I didn't remember much about any of it until it came back a little at a time, so therefore, when I can't remember, it isn't because I don't know; it is because I really can't remember. I got so many phone calls that I am trying to recall whether or not I did get one from the police or not. It seems in the back of my mind there is something about a sheriff calling me, but what he said right at the present time, I can't remember what it was. If that would have any bearing on the case, I want to remember it or recall it, but at the present time, I can't seem to remember the conversation. But I would like to add that I wasn't worried about that, because I have lived with my husband

(Testimony of Harriet E. Hambleton.)

too long to know that that is one thing that he wouldn't do, so certainly, if you are trying to find out whether I was worried about it or not, I wasn't, because I know better than that. You just know those things. My husband wouldn't have taken anybody else's car, I wouldn't have that worry. He wouldn't even have driven a borrowed car.

Q. Do I understand this testimony which you have given us here now is things that you have remembered since you came out of the hospital?

A. I remember back before, but there are still spaces that have to be filled in for me at times, such as that. I mean that has been so long ago, that has been over a year and a half, and to remember what my conversation was with that sheriff, I can't recall it enough to testify to it, because I just don't remember exactly the conversation, so I couldn't say.

Q. As the time you came out of the hospital, could you clearly and accurately remember everything you have testified to today?

A. Yes, sir.

Q. You could, clearly and accurately?

A. Wait a minute. You say when I came out of the hospital?

Q. Yes. As I understand, you went to some sanitarium?

A. No, when I first came out of the hospital, no.

Q. You couldn't remember these details you have told us about?



(Testimony of Harriet E. Hambleton.)

A. No, sir. The reason I couldn't remember them is—I don't know how to describe it, because it has never happened to me before, and I don't know when it might happen again, what happened to me, but it is a little hard to tell someone that it hasn't happened to. Things that happened—I have a very good memory, but things that happened all the way back in my childhood have to come in at times and fill in, because they were all a blank, but it is autosuggestion, whatever it is, as soon as you think of one thing you can think of something else and then it recalls it all. It builds up to that.

Q. You have talked with your husband and your mother and probably other people in regard to the events of Mr. Anderson's interview since you came out of the hospital, haven't you?

A. Yes, sir, naturally.

Q. And the suggestions they have made to you have recalled to your memory what took place?

A. Not necessarily their suggestions, just the fact that it had been discussed. This wasn't discussed at all until it became necessary, and it became necessary when the FBI, or whoever it was, started checking in our neighborhood with our friends and all. They didn't know anything about it, and they wanted an answer, wanted to know what was going on. Then it was necessary for me to give them some kind of an explanation, so naturally I did open it up and try to remember.

(Testimony of Harriet E. Hambleton.)

The witness also testified:

Yes, my husband has drunk for a long time, but it has never upset me to any great degree, because it goes back for years and years, and he has been trying to quit. It is more or less a weakness. We all have some type of weakness. I guess that has been his, and he has fought it and has been all along, and it didn't cause me any great distress, because I was certainly used to it. I had more or less had that for all my married life, which has been close to 16 years.

Q. Had his drinking been such that it interfered with his earning a living?

A. No, sir.

Q. Had it been such that it interfered with his ability to support you?

A. I wouldn't attribute it to drinking, because he tries in every way that he could to better himself and make a living and support us. His drinking never interfered with any job he ever had. He has a recommendation from any place he has ever worked, and he has always had very good letters of recommendation. Even when he was with the Army Intelligence, he has that to prove that he has never laid off from work for drinking. His drinking has been merely after working hours. Naturally I would be worried about his drinking, but I have more or less accepted it, trying to help him overcome it.



(Testimony of Harriet E. Hambleton.)

Redirect Examination

By Mr. West:

Q. Just so that there may be no misunderstanding on this, am I correct in that you did tell Mr. Anderson when he came or sometime during your conversation with him that night that you had undergone an operation? A. Yes.

Q. And he told you—am I correct in this—he told you he knew you had? A. Yes.

Q. Am I correct in my recollection that your mother got some medicine for you at the time he was interrogating you? A. Yes, sir.

Q. And he knew that you were taking medicine? A. Yes.

Q. And he knew you were taking it because of your illness? A. Yes.

Q. And he persisted in questioning you after that? A. Yes.

Q. Were you made ill from his questioning of you? A. Sir?

Q. Were you made ill from his questioning of you?

A. Well, I would say so, because Dr. Flaherty had prescribed this medicine for indigestion and upset stomach and I had not been taking it. I mean I am not much of a one to take medicine, and I had not been taking it, but I felt it was necessary to take that medicine while he was there because I was so upset.

Q. That is apart from any mental illness you

(Testimony of Harriet E. Hambleton.)

have suffered as a result of the entire questioning?

A. What?

Q. The fact that you had to take the medicine because of illness while he was there, that illness was quite apart or in addition to any mental illness you may have suffered thereafter, is that correct?

A. Well, when I took the medicine, I just took it.

\* \* \*

Q. Did you take the medicine because you felt mentally ill, or because you felt physically ill at the moment?

A. I felt physically ill, I imagine. I don't know how I felt. I just was upset.

Q. You took the medicine for your stomach?

A. Yes, sir.

\* \* \*

Upon being called for redirect examination, the witness, Mrs. Hambleton testified as follows:

At the time Mr. Anderson called no remark or mention was made of the Fifth Amendment to the Constitution. Mr. Anderson said nothing about whether or not Mrs. Hambleton was obligated to answer his questions.

Q. Can you state at this time whether or not you did most of the talking during this conversation with Mr. Anderson?

A. I wouldn't say, sir, that I did most of the talking.

(Testimony of Harriet E. Hambleton.)

Q. I am sorry, I didn't hear that. Would you repeat your answer, please?

A. I didn't do most of the talking.

Q. Do you know a Mr. Bennett?

A. I know of a Mr. Bennett.

Q. Do you know what his wife does?

A. No, sir, I never met her.

Q. Did you hear the testimony this afternoon that you volunteered to Mr. Anderson that his wife was a model?

A. Yes, sir, I heard that.

Q. Did you vounteer any such information to Mr. Anderson?

A. I don't remember the fact. I don't know the party so I don't see how I could know that.

Q. How many times would you say you had met this Bennett?

A. One time.

Q. I will ask you to recall very carefully and state who first mentioned the name Bennett during the conversation.

A. Mr. Anderson asked me if I knew of a Lt. Bennett. I told him that I didn't.

Q. Did he indicate to you at any time during his interrogation of you that he knew whether or not you had an operation? Did he know of it prior to the time he came there?

A. Yes, he indicated to me that he did know that previous to his coming out, because he mentioned that. He said, "Yes, someone told me that you had just undergone an operation."

(Testimony of Harriet E. Hambleton.)

The following questions and answers were given during this redirect examination.

Q. Did you volunteer to him information that you could have sued your husband many times for nonsupport?

A. Well, yes, I did say that I could have sued my husband lots of times for divorce, but I never had.

Q. Was that before or after the information had been brought up relative to a divorce?

A. That was after.

\* \* \*

#### TESTIMONY OF DR. JOHN B. RILEY

Dr. John B. Riley testified that he is a medical doctor licensed to practice in the State of Washington and that he does practice in the City of Seattle, being a specialist in neuropsychiatry. Dr. Riley has been engaged in such specialty since 1938.

Dr. Flaherty referred Mrs. Hambleton to him as a patient. Dr. Riley first saw Mrs. Hambleton on January 31, 1948. At that time she was disturbed and psychotic. On the same day, Dr. Riley placed her in the Crown Hill Hospital in Seattle which is an institution for the treatment of nervous and mental diseases. Mrs. Hambleton was discharged from the hospital on February 27, 1948 and Dr. Riley last saw her in his office on March 9, 1948. Upon admission to the hospital, Mrs. Hambleton was extremely tense, depressed, fearful and had

(Testimony of Dr. John B. Riley.)

the feeling people were after her and attempting to harm her. She was hearing voices and rather difficult to care for at first. At the time her memory was essentially non-existent and she was in no condition to be questioned as to her past memory. In the doctor's opinion she recognized her relatives at that time.

The treatment administered to Mrs. Hambleton at Crown Hill Hospital was a combination of electroshock treatment and insulin treatment of which she had ten electroshocks and she made a very rapid recovery after about the fifth or sixth treatment. She temporarily relapsed for three or four days but not to her previous level and then began to improve again. She received her last treatment about February 18, 1948 and remained in the hospital for approximately ten days thereafter, during which time she was essentially normal except for the loss of memory which accompanies and results from shock. When Dr. Riley saw her in his office on March 9, 1948, her memory had improved and she was outwardly essentially normal.

Dr. Riley testified that an individual who had experienced such a breakdown would be more apt to again break down than a person who had never experienced such a breakdown. From the fact that Mrs. Hambleton had had three children and had not suffered any mental breakdown as the result thereof, the doctor was of the opinion that this indicated a relative degree of stability. In other words, it would seem to take quite a good deal to

(Testimony of Dr. John B. Riley.)

break down this woman. The doctor stated that if this woman had endured intense and persuasive questioning over a period of three or three and one-half hours, during which time misstatements were made and during which she were told things about her husband which were not true, that such could possibly cause her to go into a psychosis.

\* \* \*

Q. Could a protracted period of persistent questioning with grilling constantly recurring on a point which a person had denied, to have it constantly thrown back to them over a period of time, could that, coupled with knowledge that it was a Government official who was carrying on that grilling, cause such an emotional disturbance as might cause an injury such as she sustained?

A. It could have, yes.

Q. Is medical science in a position to know exactly what causes an injury such as this woman experienced?

A. No, it is not.

Q. In your opinion, would the fact that she had been married and had previously had three children without suffering any such injury or mental disturbance as she later suffered indicate anything to you as to the type of occurrence that might be necessary to cause such an injury?

A. Well, from the standpoint of the type of mental disorder that she showed, it would indicate that it would probably take some rather severe emotional upset to produce a schizophrenic type of reaction.



(Testimony of Dr. John B. Riley.)

Q. This injury that the woman suffered, that required that she definitely have care and attention, did it not?

A. The mental illness which she experienced required attention.

Q. It was something more, was it not, than a mere emotional disturbance?

A. Yes, it was a definite psychosis.

\* \* \*

The doctor described psychosis as insanity. The individual is not neurotic or in contact with reality. They are out of their minds, the presence of delusions or hallucinations is experienced, or complete disorientation with loss of memory.

### Cross-Examination

On cross-examination Dr. Riley stated that the treatments which Mrs. Hambleton had invariably produced some memory loss and amnesia which clears up gradually after treatments are over. On March 9, 1948, when the doctor last saw Mrs. Hambleton she had not fully recovered her memory and in that regard was only superficially normal but there were no delusions nor was she experiencing any hallucinations at that time and her behavior was normal.

The doctor stated that patients who have undergone shock treatments do eventually recover their memory except for the period during which they have been psychotic and also for the period im-



(Testimony of Dr. John B. Riley.)

mediately preceding the onset of such psychosis. For example, the first ten days Mrs. Hambleton was in the hospital the doctor does not believe she will ever remember. During an episode of mental disturbance of that severity, a patient would not remember because she had never learned it. In addition to that, she would have forgotten things prior to her mental illness as a result of the treatment.

The doctor stated that you cannot tell positively whether or not a patient has actually recovered her memory or if she is reciting from suggestions that she has heard from other people. You have to take into consideration the appearance of the individual and make your own estimate of their sincerity. The individuals themselves would know definitely whether they had recovered their memory.

Dr. Riley stated that he had an opinion as to what caused the breakdown as set out in his letter to Dr. Flaherty which is Exhibit A-1 in this cause. Dr. Riley stated that he gained the information as to his opinion as set out in such letter from interviewing Mr. Hambleton and Mrs. Raskin. The doctor stated again that it is possible the questioning by Mr. Anderson could have produced the psychosis. The doctor stated, "I do not say that it did, but the time interval and the incident as it took place certainly have to be given quite a bit of consideration in attempting to find a cause for a disorder of this type."

(Testimony of Dr. John B. Riley.)

The doctor stated that he did not believe that by questioning alone an individual could be driven into a state of insanity or psychosis. That in order to produce a psychosis, the questioning would have to be accompanied by worries and threats of one type or another or false information. The doctor stated he could not classify the types of threats which would be required, but that the threats would have to be of sufficient severity to affect the individual's emotional status to a severe degree. As the doctor stated in his letter which is Exhibit A-1, in his opinion, threats, worries and interrogation are what caused Mrs. Hambleton to become insane. In answer to the question whether or not there was any way that anyone could tell in advance whether or not a given person would or would not go into a state of psychosis, the doctor stated:

A. The only way you could form any estimate was if the individual had a previous history of mental disorders, their chances would be greater than the average of breaking down. If they had a definitely positive family history of mental illness, you might suspect their chances of developing mental illnesses under severe stress and emotional strain would be greater than the average. Those two factors are the only way I know of, in a normal person. If you have a definitely schizoid personality or abnormal person to begin with, you might suspect they were verging on psychosis, which opinion you could form by talking to them and looking at them, but if that did not show on

(Testimony of Dr. John B. Riley.)

the outside of the individual and you could not determine by questioning them, the only two factors you could have to prognosticate upon would be the past history of the individual and the family history.

Q. Would that deduction which you have explained be something that only an expert would be able to determine?

A. That is essentially correct.

Q. In other words, a common ordinary investigator going out to talk to someone, there would be nothing that would be a red flag in front of his face that this person might go insane?

A. That is right.

Q. Do you consider mere questioning alone sufficient to precipitate a psychosis in a previously so-called normal person?

A. What type of questioning?

Q. Did you hear Mrs. Hambleton's testimony?

A. Part of it.

Q. You didn't hear all of it?                      A. No.

Q. The questioning was with regard to her husband's activities, in regard to an automobile accident.                      A. Over what length of time?

Q. Over what length of time would be required?

A. It would depend on the stability of the individual.

Q. A person who previously had been normal, how long a period of time would you say it would take to break one down?

(Testimony of Dr. John B. Riley.)

A. Anywhere from 30 minutes to ten years.

Q. It could be done in as short a period as 30 minutes?

A. Certain types of questioning by certain people to certain individuals, yes.

Q. The individual has a great deal to do with it?

A. Certainly.

\* \* \*

The doctor further testified as follows:

Q. Some people might go into a state of insanity with less emotional stress than others?

A. Yes.

Q. Isn't it possible that a person may have been on the verge of a psychosis and any small amount of stress would be the trigger mechanism that would cause them to break? A. Yes.

Q. Would worrying over a husband being in an automobile accident, worrying over his perhaps being charged with a grand larceny charge, place a person in a sufficient state of emotional stress that it would take only a very small additional stress to drive them into a state of insanity?

A. It is possible, in some people.

Q. From your examination of, your experiences with Mrs. Hambleton, have you formed any opinion as to whether or not she might be susceptible?

A. Yes, I have. [83]

Q. What is that opinion?

A. I consider her a very stable individual, rela-

(Testimony of Dr. John B. Riley.)

tively speaking, among those who have had a psychosis.

Q. Have you been able to form any opinion as to her condition prior to her psychosis?

A. No, except by outside history.

Q. As I understand, you now consider her very stable?

A. I assume that she has had no mental illness since February, 1949, and I assume she is 31, and I assume she has had three children prior to the age of 28 with no mental illness, and if that is so, I consider her relatively stable among those who have had a mental illness; in other words, compared to other people—not compared to people who have never had a mental illness—who have gone through the same thing.

Q. Do you think that in her present condition that questioning by a Government official would be sufficient stress to produce an acute and severe psychosis?

A. If the same incident were repeated that is alleged to have occurred, I think it could produce the same thing again. In fact, I felt a little sorry for her during her cross questioning on the stand, in view of her past history.

Q. Do you feel that the cross-examination which she was going through here was severe enough perhaps to cause a relapse? [84]

A. No, but I wouldn't want to see her sit here all day. I don't think it would be advisable from her standpoint only.

(Testimony of Dr. John B. Riley.)

Q. Do you consider the cross-examining which she went through here could have been sufficient to have caused a relapse?

A. Today, that I saw?

Q. Yes.           A. No, I do not.

Q. Assuming, of course, that she had been under questioning for a period of about two hours?

A. Well, if it were no different than what I saw, I would say no, judging by the way she bore up from it when I was here.

Q. In your practice, Doctor, do you ever question your patients intently in an attempt to delve into their subconscious?           A. No, I do not.

Q. You never attempt to precipitate a psychosis in your patients?           A. No, I do not.

Q. Do you know that a psychosis is frequently precipitated intentionally by a psychiatrist because with modern methods it is easier to treat a psychosis than it is a deep-seated neurosis?

A. I know the latter statement to be true, but I am not aware of precipitating the psychosis being common practice. I would not approve of those methods myself. The best you could expect after you had treated the psychosis was to return them to their former neurotic state, so I don't know what you would gain.

Q. In your opinion, one who is in a psychosis, after they have been treated by this mental shock are they more apt to go back into their neurosis than they are into a normal state?



(Testimony of Dr. John B. Riley.)

A. If they were neurotic before. If you had a severe neurotic that developed a psychosis, the best I would promise the relatives would be to return them to their former state, not to the state in which they existed prior to the onset of the neurosis.

Q. You know of no cases where a neurotic has been driven or gone into a state of psychosis, been treated with modern methods, and at the conclusion of his treatment he was perfectly normal and no longer had a neurosis?

A. Yes, it happens, but it is not commonplace.

Q. It is not commonplace?

A. No. The great bulk of your neurotics do not go insane, and you do not treat neurotics with shock, if you know they are neurotics. Therefore, the situation is not common.

Q. Have you formed any opinion as to the pre-psychotic personality of Mrs. Hambleton?

A. Only in retrospect, by seeing her now.

Q. In other words, you have formed no opinion other than what you see her now as to what she might have been like prior to her psychosis?

A. I gathered in March, 1948, that she was returning essentially to her former condition inasmuch as it seemed to me to be a normal personality that she returned to, and also her husband and her mother informed me she was now about the way she had been before, and I see little change between now and the last time I saw her; therefore, I assume that in March, 1948, she was exhibiting her normal personality.



(Testimony of Dr. John B. Riley.)

Q. You had the benefit of Dr. Flaherty's examinations, didn't you?

A. No, I do not have.

Q. Did Dr. Flaherty advise you that on the 31st day of December, 1947, she was in an upset condition when she called at his office?

A. I do not recall that. Let's see, December 31? I do not recall that, no.

Q. Were you advised that on January 19, 1948, she was in a nervous and upset condition when she called at Dr. Flaherty's office, and he prescribed a sedative?

A. No, I am not aware of that.

Q. In other words, you didn't go into the background of this woman very thoroughly, did you?

A. I talked to Dr. Flaherty about it when he sent her to me, and I do not know that those things are the case.

Q. You didn't examine his records to try to go back into the background?

A. I never examine any doctor's records. I assume the doctor who refers the case has intelligence enough to pass on to me pertinent information. I do not offend him by questioning him in detail on minor things which he should know. He stated to me that he had operated upon her and that she was physically normal and was now psychotic and he was referring her to me, and the psychosis was of an emergency nature necessitating treatment so we proceeded to treat her, because there was nothing else that was of much importance at that time, or at least of that much importance.

(Testimony of Dr. John B. Riley.)

A. If they were neurotic before. If you had a severe neurotic that developed a psychosis, the best I would promise the relatives would be to return them to their former state, not to the state in which they existed prior to the onset of the neurosis.

Q. You know of no cases where a neurotic has been driven or gone into a state of psychosis, been treated with modern methods, and at the conclusion of his treatment he was perfectly normal and no longer had a neurosis?

A. Yes, it happens, but it is not commonplace.

Q. It is not commonplace?

A. No. The great bulk of your neurotics do not go insane, and you do not treat neurotics with shock, if you know they are neurotics. Therefore, the situation is not common.

Q. Have you formed any opinion as to the pre-psychotic personality of Mrs. Hambleton?

A. Only in retrospect, by seeing her now.

Q. In other words, you have formed no opinion other than what you see her now as to what she might have been like prior to her psychosis?

A. I gathered in March, 1948, that she was returning essentially to her former condition inasmuch as it seemed to me to be a normal personality that she returned to, and also her husband and her mother informed me she was now about the way she had been before, and I see little change between now and the last time I saw her; therefore, I assume that in March, 1948, she was exhibiting her normal personality.

(Testimony of Dr. John B. Riley.)

Q. You had the benefit of Dr. Flaherty's examinations, didn't you?

A. No, I do not have.

Q. Did Dr. Flaherty advise you that on the 31st day of December, 1947, she was in an upset condition when she called at his office?

A. I do not recall that. Let's see, December 31? I do not recall that, no.

Q. Were you advised that on January 19, 1948, she was in a nervous and upset condition when she called at Dr. Flaherty's office, and he prescribed a sedative?

A. No, I am not aware of that.

Q. In other words, you didn't go into the background of this woman very thoroughly, did you?

A. I talked to Dr. Flaherty about it when he sent her to me, and I do not know that those things are the case.

Q. You didn't examine his records to try to go back into the background?

A. I never examine any doctor's records. I assume the doctor who refers the case has intelligence enough to pass on to me pertinent information. I do not offend him by questioning him in detail on minor things which he should know. He stated to me that he had operated upon her and that she was physically normal and was now psychotic and he was referring her to me, and the psychosis was of an emergency nature necessitating treatment so we proceeded to treat her, because there was nothing else that was of much importance at that time, or at least of that much importance.

(Testimony of Dr. John B. Riley.)

Q. Were there any psychotic factors associated with her stomach disorder?

A. I don't know anything about that at all.

Q. Or psychiatric factors?

A. I don't know.

Q. You made no inquiry into that?

A. Not that I remember at this time.

Q. In your opinion, are gastric disorders frequently associated with emotional disorders?

A. Well, I wouldn't say frequently, but they definitely are sometimes.

Q. They definitely are sometimes?

A. Yes.

Q. You were aware that Mrs. Hambleton had had an operation for a stomach disorder, a gastric disorder?

A. Yes.

Q. As I understand, you made no attempt to determine whether or not her emotional disorders might be associated with that ailment?

A. Not that I remember, no.

Q. Do you feel you are able to state how much the condition of her husband—that is, what emotional stress might have been associated with her husband being in an accident contributed to her condition?

A. No, I cannot.

Q. During the course of your interviews with the husband and the mother, did you gain any information that her nervous and upset condition might have been caused from her husband's drinking?

(Testimony of Dr. John B. Riley.)

A. I believe I heard something about that.

Q. Was anything reported to you that her husband had caused her considerable trouble and mental grief by his drinking and running around?

A. I just remember having heard that he had been doing some drinking, but it isn't a part of my records, and I don't recall any more than that.

Q. That information came to you as a part of your investigation in order to try to help this woman, as I understand?

A. I knew what to do with this woman whether she had any relatives or not. I did not start off to treat her for neurosis, which requires a very long investigation. She was obviously psychotic, of a certain type, and I put her in the hospital and got her well with the same method of treatment I would use if I hadn't known a thing about her. Following that, she had no complaints so I discharged her. Had I been treating her as a neurotic, I would have known a hundred times more about her background than I now know, but Dr. Flaherty never indicated that there was any neurosis present, or that he desired any treatment for that. He sent me a psychotic patient and I treated her for that and turned her loose at the expiration of that time, and no facts were necessary at all as to know what to do with the treatment.

Q. In your opinion, from the facts which you have gained, do you think the husband's behavior and his accident were contributory to her emotional upset?

(Testimony of Dr. John B. Riley.)

A. I don't know anything about his behavior. I vaguely remember somebody said he had been drinking; I don't know who said it or how much or how severe or anything else.

Q. Did you know about it?

A. I think I did, yes.

Q. Now that you know about it, do you think it contributed to her emotional upset?

A. I would have to know a lot more about how much drinking he had been doing, how severe, and what type of drinker, etc. Naturally it is something that can't be completely overlooked, and if I knew all about it, I could give you an honest answer, but I do not know all about it, and so therefore I cannot. But if it had been of any severity, it must be considered contributorily, and then it would have to be weighed with the other emotionally traumatic events to see which were the most severe. That is the best I can tell you on that.

\* \* \*

### Redirect Examination

Upon redirect examination, Dr. Riley testified as follows:

Q. Some mention was made of the time interval involved here. Assuming that she was not mentally disturbed in any way on the 21st day of January, and that she was mentally disturbed on the 28th day of January, is that time interval such that an emo-



(Testimony of Dr. John B. Riley.)

tional disturbance on the 21st day of January could have caused her condition?

A. Yes, that is possible.

Q. If this patient on the 21st day of January was subjected to the grilling, the questioning for the protracted period of three and a half hours or thereabouts, as I asked you previously, if she had recently recovered from a severe stomach operation and was still recovering, then would you say that from placing her in a state of severe emotional stress, that this psychotic condition might be one of the results to be anticipated?

A. No, I could never anticipate the psychotic condition, but if you mean would the grilling on top of a major operation make her more prone to develop trouble, than if she hadn't had the operation, I would say yes.

\* \* \*

### TESTIMONY OF LT. CLARENCE J. WILLIAMS

Lt. Clarence J. Williams testified that he is a First Lieutenant, Transportation Corps, United States Army, stationed at Fort Lawton, Washington; that he has known Mr. and Mrs. Hambleton for some period of time.

On January 23, 1948, Mrs. Hambleton, in the company of her mother, Mrs. Raskin, called at his house. Mrs. Hambleton inquired of Lt. Williams as to why the army was investigating Mr. Hambleton. Lt. Williams denied any knowledge of such



(Testimony of Lt. Clarence Williams.)

an investigation. Mrs. Hambleton talked in tangents and was generally incoherent. When Lt. Williams offered her a Coca Cola, she accused him of trying to poison her and refused to take it.

Four days later, Lt. Williams saw Mrs. Hambleton at her home at which time she was in bed and that in his opinion she did not recognize him. On the last Friday in January of 1948, Lt. Williams again called at Mrs. Hambleton's home at which time she did not recognize him. At that time, Mrs. Hambleton stated, "Is this another one of my enemies?"

### TESTIMONY OF EDWIN A. GOLDER

Mr. Golder testified that he is a police officer working for the City of Seattle and that he has known Mr. and Mrs. Hambleton a considerable period of time and considers them among his circle of friends.

On the Sunday following January 20, 1948, Mrs. Hambleton called at his home somewhere around noon. In his opinion, she appeared to be upset and he knew immediately there was something wrong. They sat in the living room and Mrs. Hambleton had a handkerchief in her hand which she was twisting and tearing. Mrs. Hambleton wanted to know what he knew about Mr. Hambleton being arrested on a charge of grand larceny and supposedly being out of town with another woman. Mr. Golder denied any knowledge of these facts.

(Testimony of Edwin A. Golder.)

At intervals Mrs. Hambleton would break down and cry. Mr. Golder testified that Mrs. Hambleton definitely was not herself on that particular date.

### Cross-Examination

On cross-examination Mr. Golder stated that from his observations he knew that Mr. Hambleton was addicted to the use of alcohol.

### TESTIMONY OF MRS. HENRY RASKIN

Mrs. Raskin testified that she is the mother of Mrs. Hambleton and that she resides in the same neighborhood as Mr. and Mrs. Hambleton.

Mrs. Raskin testified that she went to her daughter's home on or about January 20, 1948 and found Mr. Anderson and her daughter present. She fixed the time that she arrived at about 4:15 in the afternoon. When she arrived, Mr. Anderson was "grilling" and quizzing Mrs. Hambleton about something which seemed to Mrs. Raskin not to be of any interest to Mrs. Hambleton at all and that she, Mrs. Raskin, did not know what it was all about.

When Mr. Anderson discovered that Mr. Hambleton had been in an accident he insinuated that Mr. Hambleton had left with a redhead. Mrs. Raskin stated that naturally she thought it was a woman and that although Mr. Anderson did not actually say it was a red headed woman, she was certain he meant a red headed woman.

(Testimony of Mrs. Henry Raskin.)

Mrs. Raskin recalls Mr. Anderson asking Mrs. Hambleton if she had an attorney and stating that he could help her if she would tell him who the attorney was, insinuating that Mrs. Hambleton was trying to get a divorce which she wasn't. During the course of the conversation, Mr. Anderson quizzed Mrs. Hambleton in regard to a Mr. Bennett but Mrs. Hambleton knew him by a different name and that this conversation extended until about 8:00 in the evening.

During the course of the conversation, Mrs. Raskin asked Mrs. Hambleton if she did not want some of her medicine and that Mrs. Raskin obtained some medicine for her. While Mrs. Hambleton was taking the medicine, Mrs. Raskin told Mr. Anderson that she thought he was upsetting Mrs. Hambleton and that enough had been said. By this language Mrs. Raskin said she was insinuating for Mr. Anderson to leave and that she thought he had talked long enough to Mrs. Hambleton.

In describing what she meant by grilling, Mrs. Raskin stated that Mr. Anderson kept asking questions over and over about something that did not concern what he seemed to be out there for. After Mr. Anderson left, Mrs. Raskin figured that he had been trying to get the name of a man and if he had left town with Mr. Hambleton, and in regard to something that had happened at Fort Lawton.

Later in the evening after Mr. Anderson had left, Mrs. Raskin returned to her daughter's home

(Testimony of Mrs. Henry Raskin.)

and found her more upset than she had been on the previous occasion and that she felt it was necessary for someone to be with Mrs. Hambleton during the evenings following the interview by Mr. Anderson.

Cross-Examination

Upon cross-examination, Mrs. Raskin stated that she could not remember whether Mr. Anderson had specifically inquired about a redheaded woman or if he had merely inquired about a redhead.

During the course of this grilling, as you call it, was Mrs. Hambleton asking Mr. Anderson any questions?

A. Well, not so much as he was asking her questions and she was trying to answer them.

Q. Wasn't she entering into the conversation just as much as he was?

A. Well, when he would ask her questions, she did.

\* \* \*

Q. You have been here all day today, have you not? A. Yes.

Q. Was her response to the questions which Mr. Anderson asked her very similar to the responses which I got from my questions today?

A. I beg your pardon?

Q. You heard your daughter testify—it is your daughter, isn't it? A. Yes.

Q. You heard your daughter testify today, didn't you? A. Yes.

(Testimony of Mrs. Henry Raskin.)

Q. Did she answer Mr. Anderson's questions about the same manner as she answered my questions today?      A. Yes.

Q. Isn't it a fact that Mr. Anderson informed Mrs. Hambleton at the outset that he was not investigating Mr. Hambleton but what he was interested in was an allegation that some officer at Fort Lawton was demanding that private detectives who turned in deserters split with that officer on the reward which they received? Isn't that what Mr. Anderson explained to Mrs. Hambleton he was investigating?

A. No, he didn't explain it. He told her he was quizzing about a Mr. Bennett and about the Fort, but it seems the question was more of Mr. Hambleton than it was Mr. Bennett. [125]

Q. Didn't Mr. Anderson tell Mrs. Hambleton that he had understood that Mr. Hambleton had been required to split his rewards with Lt. Bennett and that is what he was really investigating, and that is what he really wanted to know?

A. He did ask that question, but she says, "I don't know nothing about that".

Q. Isn't it a fact that Mrs. Hambleton did tell Mr. Anderson that she was familiar with all of Mr. Hambleton's work?      A. Yes.

Q. Wasn't he trying to determine something in regard to whether or not Mr. Hambleton had been turning in deserters and collecting a reward?

A. Well, I think he referred to that.

(Testimony of Mrs. Henry Raskin.)

Mrs. Raskin testified that she and her daughter did not intimately discuss with each other their problems as neither wanted to worry the other, and the personal life of each of them was somewhat of a mystery to each other.

Mrs. Raskin did recall that a few months prior to the interview by Mr. Anderson, Mr. Hambleton had been involved in an automobile accident in which his car was almost completely demolished.

When Mrs. Hambleton returned from the Crown Hill Hospital, she could not remember all the things that had happened before she had gone to the hospital. After a week or so she did recover her memory so that she could upon being questioned remember things. Within a month after she came out of the hospital she had recovered about as much of her memory as she had at the time of the trial.

End of Mrs. Raskin's testimony

The stipulation which is Exhibit A-7 was introduced in evidence, and the plaintiff rested.

Upon the conclusion of the plaintiff's evidence, the defendant made an oral motion for dismissal which is set out as follows on pages 151 and 152 of the Transcript of Testimony.



Mr. Evans: The defendant at this time moves for dismissal, Your Honor. The defendant challenges the evidence of the plaintiff. There has been no showing here that there has been any tort committed. There has been no showing of any wrong done to the plaintiff's person or property. Under the decisions that have been cited in my memorandum, I believe it is a prerequisite to recovery that there be a physical wrong either to the person or to the property of the plaintiff.

I don't believe there has been any tort shown here whatsoever. The most that has been shown is that the mother insinuated at one time that Mr. Anderson leave. There is no testimony at all that he was ever specifically requested to leave. There is no showing here of any violation of any of the rights of the plaintiff whatever.

Under the laws of the State of Washington as set down in the decisions by our Supreme Court, I don't believe there is a recovery under the law of the State of Washington. I have covered this rather thoroughly in my memorandum of authorities, and I do not wish to take up any more time at this time unless the Court would care to hear me further.

The Court: The challenge is overruled and the motion is denied.

Defendant may now proceed with defendant's case in chief.

\* \* \*



(Opening statement made by counsel for defendant.)

\* \* \*

## CAPTAIN WILLIAM L. ANDERSON

### Direct Examination

Captain Anderson testified that he was presently a captain in the United States Army in the Counter Intelligence Corps and was presently assigned as an instructor in the Counter Intelligence Center at Camp Holabird, Maryland; that this institution was the service school for the Counter Intelligence Corps of the United States Army. He testified that on January 21, 1948 he held the rank of Master Sergeant in the United States Army and was assigned as an investigator for the Criminal Investigation Division of the United States Army stationed at Fort Lewis, Washington.

Captain Anderson testified that United States Army Field Manual 19-20 (Exhibit A-3) and War Department Circular 276 (Exhibit A-5) were official War Department publications and that they dealt with the function and duties of the Criminal Investigation Division agents. Captain Anderson stated that his duties as instructor at the Counter Intelligence Corps center involved teaching the contents and application of these publications. Exhibits A-3, A-4 and A-5 were admitted to evidence.

Captain Anderson testified that he holds an L.L.B. degree from Suffolk Law School in Boston and that prior to entering the Army he had worked for the

(Testimony of Captain William L. Anderson.)  
Employers Liability Assurance Corporation of  
London as an investigator.

Captain Anderson testified that Exhibit A-3, Field Manual 19-20, is literally the "Bible" of Criminal Investigation Division investigators as to how to operate.

Captain Anderson testified that the Army had received information that certain military personnel at Fort Lawton had been demanding from certain individuals dealing with the Army, a split in the reward usually granted to persons bringing in deserters or AWOL's under military control and it was this violation which he was investigating at the time he interviewed Mrs. Hambleton. Captain Anderson testified:

A. I called Mrs. Hambleton for the purpose of making an appointment and she inquired, of course, who I was and what I wanted, and I told her I was Mr. Anderson and that I was representing the Army, and she inquired, "Well, what would you like to see me about," and I told her, "I can't talk over the telephone but I would like to arrange to see you," and she kept insisting, "Well, what is it about? Why do you want to see me". Again I repeated that I couldn't tell her over the telephone, that I had some information regarding her husband and that perhaps she could give me some information.

So she said, "Well, you won't be out for an hour, will you", and I said, "No, whatever time is convenient for you", so she said, "I'll be ready after

(Testimony of Captain William L. Anderson.)  
about an hour.” I said, “All right, but I haven’t the slightest idea where your street is, because I am not familiar with Seattle,” and she gave me directions as to how to get out to, I believe it was eight thousand something 35th St., S.W., and that was the gist of the conversation.

\* \* \*

Captain Anderson testified that he left Fort Lawton just before five o’clock in the afternoon of January 21, 1948, to go to Mrs. Hambleton’s house and that he was delayed in arriving there because of the five-o’clock traffic in the City of Seattle. He estimated it took him approximately  $\frac{3}{4}$  of an hour from the time he left Fort Lawton until he arrived at Mrs. Hambleton’s home. He further testified that he was in civilian clothes at the time as he was authorized to be. Upon arriving at Mrs Hambleton’s home he was invited in by Mrs. Hambleton who was completely dressed in what he recalled as a dark blue suit. Captain Anderson displayed his credentials which was an identification card. This identification card was admitted in evidence as Exhibit A-2.

Captain Anderson stated that he told Mrs. Hambleton that he was investigating a report that certain military personnel at Fort Lawton had been demanding a split in the rewards given to detectives and other police officers for returning AWOL’s and deserters to military control. He further advised her that in his investigation he had found that Mr. Hambleton had turned in several deserters

(Testimony of Captain William L. Anderson.)

and AWOL's to military control. He stated that he wanted to know if Mrs. Hambleton could give him any information as to military personnel at Fort Lawton having demanded that Mr. Hambleton split this reward with them. Mrs. Hambleton stated she had no knowledge of any such activities.

Captain Anderson further testified that he advised Mrs. Hambleton that according to the Fifth Amendment to the Constitution she was not required to give him any information whatsoever and further that if she did not want to talk with him she did not have to. However, Mrs. Hambleton was very friendly and was willing to cooperate.

Captain Anderson further testified that he told Mrs. Hambleton he would like to have an interview with her husband whom he understood was in Lovelock, Nevada, and that he would like to know when he would be back so that he could arrange such an appointment.

Mrs. Hableton kept questioning Captain Anderson as to how he knew Mr. Hambleton was over in Nevada. At about this point in the conversation Mrs. Hambleton received a telephone call. Captain Anderson did not know who the call was from. However, after the telephone conversation Mrs. Hambleton seemed to be a little belligerent, stating to Captain Anderson that he should tell her all about her husband being over in Lovelock, Nevada; that the woman she had just talked to had told her that Mr. Hambleton was being held on a grand

(Testimony of Captain William L. Anderson.)

larceny charge in Nevada. Mrs. Hambleton kept stating that since Captain Anderson was representing the United States Army he knew all about what was going on in Nevada and that he should tell her. Mrs. Hambleton stated that she had received a telephone call from the sheriff's office inquiring about whether her husband owned the car he was driving at the time of the accident in Nevada. Mrs. Hambleton continued to press Captain Anderson for such information stating that she was deeply upset about not knowing what was going on in Nevada as it concerned her husband.

Shortly thereafter Mrs. Raskin arrived at the home of Mrs. Hambleton. Thereafter Mrs. Hambleton received a telephone call from her husband in Nevada.

Mrs. Hambleton asked Captain Anderson if he knew a soldier by the name of Johnson who had gone to Nevada with Mr. Hambleton. Captain Anderson inquired as to whether he was a redhead. As soon as Captain Anderson mentioned the word redhead Mrs. Hambleton began to question him as to why he would say redhead and wanted to know if he meant redheaded woman. When Mrs. Raskin arrived Mrs. Hambleton told her that Captain Anderson was there for the purpose of determining whether or not any military personnel at Fort Lawton had been forcing Mr. Hambleton to split the rewards with them and that she, Mrs. Hambleton, had been unable to give him any information. Mrs.



(Testimony of Captain William L. Anderson.)

Hambleton advised her mother that Captain Anderson thought there was a redhead involved. Upon hearing this statement Mrs. Raskin told her daughter that if this was another one of those episodes it was going to be the last one. Mrs. Raskin then asked Mrs. Hambleton if she had taken her medicine that day and upon receiving a negative reply obtained medicine for Mrs. Hambleton. While she was giving Mrs. Hambleton her medicine Mrs. Raskin stated that Mrs. Hambleton was having a great deal of trouble and that her husband was the cause of it all. Mrs. Raskin then advised Captain Anderson that Mrs. Hambleton had just had an operation for a peptic ulcer and that Mr. Hambleton had kept Mrs. Hambleton in a constant state of nervousness. Then Mrs. Hambleton stated that Mr. Hambleton had very bad drinking habits and in addition he ran around. Mrs. Hambleton further stated that at times her mother had to bring food over to the house for herself and the children and at times had had to help make payments on the house. Captain Anderson further testified that Mrs. Hambleton stated that she had enough against Mr. Hambleton to sue him for non-support at any time.

Captain Anderson testified that he had made another appointment which he intended to keep after his interview with Mrs. Hambleton but that his interview with Mrs. Hambleton had taken so much time he did not believe he would be able to keep it. Captain Anderson asked permission to use Mrs.

(Testimony of Captain William L. Anderson.)

Hambleton's phone and upon calling the number of the party with whom he had a later appointment Mrs. Hambleton recognized the number as being that of a former client of Mr. Hambleton's who had had a redheaded girl working for her. This telephone call seemed to worry Mrs. Hambleton considerably as well as Mrs. Raskin and Captain Anderson was again questioned as to what he knew about Mr. Hambleton and what was going on in Nevada.

Prior to Mrs. Raskin's statement that Mrs. Hambleton had had an operation, Captain Anderson had no knowledge of such.

Captain Anderson testified that he made an official report of the entire investigation and that said report was made on January 27, 1948. That portion of the report which pertains to the interview with Mrs. Hambleton was admitted in evidence as defendant's Exhibit A-6. Captain Anderson testified that he had no knowledge of any claim against the Government because of his interview with Mrs. Hambleton until approximately two months after the interview. Captain Anderson further testified that Exhibit A-6 is an exact copy of that portion of his official report which pertains to the interview with Mrs. Hambleton.

Captain Anderson testified that proceedings were never instituted involving the subject matter of his investigation. Captain Anderson testified that he was at the home of Mrs. Hambleton approximately one and one-half hours.



## TESTIMONY OF DANIEL CURRIE, JR.

Mr. Currie testified that he is a Special Agent for the Federal Bureau of Investigation assigned at Seattle and that his duties are in the nature of a supervisor; his specific assignment being that of Special Assistant in Charge of the Seattle office.

Mr. Currie stated that on or about January 19, 1948, the Seattle Office of the Federal Bureau of Investigation received a communication from their Salt Lake Office that the sheriff from Lovelock was inquiring as to the ownership of the vehicle which Mr. Hambleton was driving at the time of the accident. Mr. Currie further testified that he found the number for Mr. O. E. Hambleton in the telephone book and called that number. A lady answered the telephone and identified herself as being Mrs. Hambleton. Mr. Currie advised her that he was calling for the purpose of eliminating any possibility of an unreported car theft, that their car had been in a wreck on January 18, and that Mr. Hambleton, according to the FBI report, was in the hospital and he wanted to make sure that the person identifying himself in Nevada as Mr. Hambleton was in fact Mr. Hambleton and that the car did belong to Mr. Hambleton. Mrs. Hambleton stated that Mr. Hambleton was the man who owned the car and that he was in Lovelock, Nevada.

TESTIMONY OF CAPTAIN  
ROBERT F. JONES

Captain Robert F. Jones testified that he is a Captain in the United States Army, Corps of Military Police; that he is presently stationed at Fort Lewis Washington, as Chief Agent of the 61st Criminal Investigation Division Detachment. That in such capacity he is custodian of the official report submitted by Captain Anderson and dated January 27, 1948, in regard to an investigation of 1st Lt. Robert E. Bennett. Captain Jones further testified that Exhibit A-6 was an exact copy of that portion of such report which dealt with Captain Anderson's interview with Mrs. Hambleton and that he had prepared such true exact copy and had certified that it was such.

TESTIMONY OF LT. COL.  
ROBERT J. BERNUCII

Col. Bernucii testified that he is a Lieutenant Colonel, Medical Corps, U. S. Army, and that he is a qualified and licensed medical doctor having graduated from Detroit College of Medicine in 1927. He testified that at the present time he is the Chief in Neuropsychiatry at Madigan General Hospital. Col. Bernucii testified that the purpose of an electroshock treatment is to cause the patient to forget the conflicts which have been causing them their emotional disturbances. When the patient forgets the emotional conflicts which produce the mental illness it leaves the patient normal. If the shock

(Testimony of Lt. Col. Robert J. Bernucii.)

therapy is successful and the patient is cured, he will seldom remember the psychic trauma which produced the mental illness and the things which occurred prior to the shock. Gradually over a period of time the memory does return, although it may be spotty, eventually it does return. There are, however, some things which the patient can never recall.

The Colonel testified that there is no way medical science can accurately determine what causes the psychosis. The witness further testified that in the study of psychosomatic medicine it is felt that about two-thirds of gastric disorders, including peptic ulcers, are associated with emotional disorders.

Q. From your experience with electric shock treatment, will you state whether or not a person who has gone through electric shock treatment is likely to remember the specific things that might have caused their psychosis?

A. I doubt that very much.

\* \* \*

In regard to determining what causes a psychosis, the witness testified as follows:

The Witness: I see. Well, all I can do is reiterate that a psychosis is produced by a long series of events, a long series of trauma that happens to that individual throughout life, that may be from early childhood. Now, we have mentioned certain precipitating factors, but we cannot put our finger on those and say that they are the cause. As I have

(Testimony of Lt. Col. Robert J. Bernucii.)

stated before, there are the three factors that have to be taken into consideration: the patient's own personality or biological makeup, just how much stress they can stand; their life history and the things that have happened to them through life; and then the precipitating stress, whatever that may be.

Q. Is there any way that one can tell in advance whether or not any given individual is going to go over into a psychosis or not upon a certain given set of circumstances?           A. No, sir.

\* \* \*

#### TESTIMONY OF MR. A. D. NUNN

Mr. Nunn testified that he was a private investigator residing in the City of Seattle; that he was personally acquainted with Mr. Hambleton, one of the plaintiffs in this action and that upon one occasion Mr. Hambleton had made a remark that Mrs. Hambleton took a very dim view of his drinking and of the detective profession because he had to work so much at night. He further testified that on that particular occasion, Mr. Hambleton stated he had better go home before he took another drink or he would be in the "dog house."

## TESTIMONY OF DUFFY HAMBLETON

Duffy Hambleton testified that he is the son of Mr. and Mrs. Hambleton, the plaintiffs in this action and that he is 13 years old. The witness testified in regard to fixing the time which Mr. Anderson arrived for his interview with Mrs. Hambleton and fixed the time at approximately 4:15 to 4:30 in the afternoon. This witness further disputed the testimony of Mr. Anderson as to how Mrs. Hambleton was dressed. He stated that she was wearing a bathrobe or housecoat at the time. The witness further stated that it was about 8:00 when Mr. Anderson left after the interview.

/s/ J. CHARLES DENNIS,  
United States Attorney.

/s/ VAUGHN E. EVANS,  
Assistant U. S. Attorney.

Copy received March 22, 1950.

STANLEY C. SODERLAND,  
Atty. for Plaintiffs, Appellees.

[Endorsed]: Filed Feb 21, 1950, U.S.D.C.

[Endorsed]: Filed Mar. 27, 1950, U.S.C.A.

DEFENDANT'S EXHIBIT A-1

John B. Riley, M. D.  
Psychiatry and Neurology  
721 Cobb Building  
Seattle 1, Washington  
Seneca 1335

February 14, 1948

Dr. F. E. Flaherty  
Stimson Building  
Seattle, Washington

Dear Dr. Flaherty:

Thank you for referring Mrs. Elizabeth Hambleton to me. She was rather disturbed when seen in the office, so I promptly put her in the sanatorium and started a course of electric shock treatments. She recovered quite rapidly temporarily, with perfect insight. However, she almost immediately relapsed to some extent, but considering everything, I feel that she is progressing as well as can be expected. This appears to be a catatonic type of schizophrenia.

There was a most unusual inciting factor present as a contributing factor in producing this psychosis. A private detective grilled her for 4½ hours, threatened her, told her malicious lies about her husband, etc. This instance obviously took place and can be substantiated by reliable witnesses. This was apparently of sufficient psychic trauma to produce a psychosis, whereas marriage and three children had not been able to. Therefore, I feel that her



future should be much better than the average schizophrenic.

Sincerely yours,

/s/ JOHN B. RILEY,  
M.D.

JBR:ms

Admitted Nov. 4, 1949.

[Endorsed]: Filed March 28, 1950, U. S. C. A.

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## DEFENDANT'S EXHIBIT A-5

Cir 276  
12513

War Department  
Washington 25, D. C., 11 September 1946

Effective until 11 March 1948 unless sooner rescinded or superseded.

Section  
Criminal Investigation Program—Responsibilities and procedures..... I  
Signal Center Reports—Data on operations... II

### I. Criminal Investigation Program

1. General. The Criminal Investigation Program has been established to provide efficient and effective investigation of crime within the Military Establishment. The Director of Personnel and Administration, War Department General Staff, is charged with responsibility for the Criminal Inves-

tigation Program. Acting for him, the Provost Marshal General will exercise staff supervision over the Criminal Investigation Program.

2. Primary Responsibilities. The primary responsibility for the operation of this program in continental United States rests with Commanding Generals, Army Air Forces, armies in zone of the interior, and Military District of Washington, and oversea responsibility rests with commanding generals, theaters, independent commands, and Alaskan Department. This responsibility is normally discharged by the provost marshal of the command concerned who will designate a chief of criminal investigation for the command.

3. Function. The chief of criminal investigation on the staff of the provost marshal of a command, designated pursuant to paragraph 2, is responsible for the following functions:

a. Maintenance of close supervision, direction, and control over criminal investigation activities within the command.

b. Maintenance of such records and reports as prescribed by the War Department.

c. The selection, assignment, and transfer, within the command, of criminal investigators.

d. Rendering of maximum criminal investigative assistance to posts, camps, stations, and other military installations within the command and the temporary assignment of specialists in criminal investigation to subordinate commands to meet unusual circumstances.

e. Coordination and cooperation with local governmental agencies and local officers of appropriate federal agencies.

f. Supervision and direct control over the issuance of criminal investigators' identifications and badges.

g. Supervision and control over the expenditures of special funds in accordance with pertinent finance regulations governing project 416.

h. Supervision over the wearing of civilian or other special clothing by criminal investigators in the performance of their duties.

i. Authority to decide requirements and locations of civilian type automobiles for use of investigators.

4. Personnel. The operating and supervisory criminal investigation personnel will be selected from military and civilian personnel who meet minimum qualifications. Classification of an individual as a qualified criminal investigator will be based upon one of the following, with special emphasis upon good character, dependability, and above average intelligence:

a. Investigative experience in civilian or military life. This experience may include police work, credit investigations, claim adjustments, local, State, or Federal investigative duties, military or naval investigative duties, commercial investigations, and similar vocations. In each instance the period covered, the exact extent of the experience and the proficiency attained must be considered.

b. Completion with satisfactory grade, of an investigator's course at a recognized military or civilian school. Here, consideration must be given to the application of instruction received to field work and practical experience in the actual conduct of investigations.

c. Demonstration of ability by successful investigation of cases in actual practice. Past records and recommendations of immediate supervisors are determining factors in this category.

d. Possession of latent capabilities by reason of legal training, natural bent, enthusiasm, reasoning powers, or other qualities which indicate that the individual under consideration should develop into a competent investigator. Selection is made in these cases by the use of good judgment and the ability to analyze and evaluate correctly the potentialities of the man under consideration.

5. Duties. Criminal investigators are charged with the following duties:

a. Investigating and reporting on crimes committed by military personnel and civilians subject to the Articles of War.

b. The collection and preservation of all evidence of crime affecting the army.

c. The prevention and suppression of crime within the Military Establishment.

d. In cooperation with the proper civil officials, the investigation of crime committed against the Army or by military personnel against civilians. This mission requires the establishment of liaison

and the maintenance of cordial relations with established local law enforcement agencies, and cooperation with all governmental agencies concerned.

e. Recovery of lost, stolen, or abandoned Government property.

f. The apprehension of military personnel, and civilians subject to the Articles of War, who have committed crimes.

g. The distribution of information to appropriate commanding officers concerning crimes committed by personnel of their commands.

h. The preparation of surveys of ports, docks, warehouses, depots, Army exchanges, and transportation facilities with recommendations to reduce or eliminate larceny and misappropriation of Government food, clothing, equipment, and supplies. The surveys are limited solely to crime prevention and the apprehension of criminals.

6. Cooperation With Bureau of Narcotics. It is the responsibility of the Bureau of Narcotics, United States Treasury Department, to prevent the illegal use or sale of narcotics. All evidence of the use or sale of narcotics by military personnel will be reported to the nearest office of the Bureau of Narcotics immediately upon discovery. All commanders will comply with requests of appropriate agencies of the Bureau of Narcotics for the assistance of military personnel in obtaining evidence of narcotics transactions involving members of the Military Establishment.

7. Cooperation With Bureau of Customs. It is the responsibility of the Bureau of Customs, United States Treasury Department, to prevent the illegal importation into the United States of goods and property. Upon the request of the War Department, the Bureau of Customs examines packages mailed by members of the armed forces abroad to friends and relatives in the United States to ascertain whether the packages contain items of stolen United States property. The Commanding Generals, Army Air Forces, armies in continental United States, and Military District of Washington are directed to—

a. Establish liaison with the collectors of customs within the geographical limits of their respective commands.

b. Request notification by customs officials when examination of a mailed package discloses articles which are, or are believed to be, United States Army property.

c. Obtain a complete description of the United States property; the name, rank, Army serial number, organization, and address of the sender; and the name and address of the addressee.

d. Upon determination that the articles in question are Government property, request customs officials to release the articles to military authorities. The military authority concerned will promptly turn the articles over to the nearest post, camp, or station to be picked up in accordance with instructions applicable to property found on the station as prescribed in TM 38-403, Station Supply Procedure.



e. Transmit to the Provost Marshal General, Attention, Provost Division, Washington 25, D. C., a report in duplicate of the information required by c. above.

8. Cooperation With Secret Service. It is the responsibility of the Secret Service, United States Treasury Department, to prevent the illegal manufacture and use of United States currency. All evidence of the manufacture or use of counterfeit moneys by military personnel will be reported to the nearest office of the Secret Service immediately upon discovery. In the event there is no local office of Secret Service, particularly in oversea theaters, all evidence will be forwarded to the Provost Marshal General, Washington 25, D. C., for coordination with Secret Service. All commanders will comply with requests from appropriate agencies of the United States Treasury Department for assistance in investigating counterfeit money transactions or other illegal handling of negotiable government instruments, involving members of the Military Establishment.

9. Cooperation With the Federal Bureau of Investigation and Other Federal Investigative Agencies. When the investigation of an offense committed under the jurisdiction of a military commander discloses that civilians are involved either alone or jointly with military personnel and ultimate prosecution by Federal civil authorities is indicated, and when the commanding officer concerned determines that the circumstances require investigation by other than military authorities, the

United States attorney and the nearest office of the Federal Bureau of Investigation will be immediately advised. Thereafter, in the event Federal investigating agencies undertake an investigation, the fullest possible cooperation will be accorded. The results of any investigation conducted by the military authorities will, in such cases, be made available to the Federal investigating agency. Attention is directed to paragraph 5b, AR 600-355, as changed which provides for the delivery to civil authorities of military personnel under certain specified conditions and for certain crimes or offenses committed within continental United States. Attention is also directed to War Department letter (AG 250.4 (30 Jan 46) OB-S-SPJGJ-WDOUS-M) 30 January 1946, Trial of Persons for Murder or Rape in Violation of Article of War 92, which provides that court-martial trials for such offenses committed within the geographical limits of the United States will not be held except upon special authorization of the Secretary of War.

10. General Instructions. In order that the operations of criminal investigators may be as efficient and effective as possible, all personnel are directed to observe the following general instructions:

a. Criminal investigators' identifications and badges will be honored in the official performance of their duties at all times and in all places irrespective of the military rank of the person being investigated or of the investigator.

b. Full cooperation will be afforded investigators at all times in the official performance of their duties and they will be addressed as "Mister" or "Agent," and will not at any time be required to reveal their military rank, except by competent authority in line of command.

c. Criminal investigators normally are separately billeted and messed from other military personnel. They are normally accorded the privileges of officers' messes in the performance of their official duties.

d. Where possible criminal investigators should be given complete freedom of movement within their respective commands and under unusual circumstances or emergencies may travel into other commands. Care should be exercised to report their presence to appropriate authorities of commands visited, either in advance or as soon as expedient after entry into the command.

e. Carrying of fire-arms by criminal investigators is authorized only in the performance of their official duties.

f. Criminal investigators have the same authority of arrest as military police. Attention is directed to paragraphs 83, 84, and 85, FM 19-20 and paragraph 6, FM 19-5.

g. With respect to criminal investigation, all class I and II installations and activities in continental United States are under the jurisdiction of the army area or Military District of Washington in which geographically located.

11. References. a. FM 19-20, 30 April 1945 Criminal Investigation.

b. Chapter 6, FM 19-5, 14 June 1944 Military Police.

c. Articles of War 2, 12 through 16, and 54 through 96.

12. Rescissions. This circular supersedes the following circulars and letters which are rescinded:

a. Army Service Forces letter (SPX 250.1 (24 Feb 44) OB-S-SPMGR-M) 4 March 1944, Cooperation with the Bureau of Narcotics, United States Treasury Department.

b. Army Service Forces letter ((16 Mar 45) SPDC) 24 March 1945, United States Army Property Mailed into the United States by Members of Armed Forces Abroad, as amended by Army Service Forces letter (SPXMP-M-012.41 (14 Feb 46) SPMGR) 18 February 1946, same subject.

c. War Department letter (AGOB-C 333.5 (20 Mar 45)) 26 September 1945, Investigations by the Federal Investigative Agencies.

d. War Department letter (AGMP-M 250.1 (13 Jul 45) OB-C-SPMGO) 11 August 1945, Criminal Investigation Activities within the Military Establishment.

e. Section II, ASF Circular 329, as amended by section I, ASF Circular 332, 1944.

f. Section I, ASF Circular 383, 1945.

(AG 250.1 (30 Aug 46))

Admitted Nov. 8, 1949.

## DEFENDANT'S EXHIBIT A-6

Details:

Confidential

Criminal Investigation Report Re: Lt. Bennett.

Details:

20. 21 Jan 48 Mrs. O. E. Hambleton, 8312 35th St. South West, Seattle was interviewed. This agent asked her if she knew where her husband was. She said in Lovelock, Nevada. He went there with a former soldier, whom she thought little of, by the name of Garland Johnson. This agent asked her if he was a "red head." She asked why a "red head," and continued to question along these lines. I told her I wasn't interested in Mr. Hambleton's activities but was interested in whether he ever mentioned being required to give or split any of the reward he received with any military personnel. She said that she had never heard of it and felt that she would know because he always told her about his cases. She continued to worry about the "red head" I had injected into the conversation. She then took some medicine that was given her by her mother who came in during the interview. This agent then learned that she had just came out of the hospital about 2 weeks ago after a major operation for peptic ulcer. This agent was careful not to upset the woman after learning of her illness. She said this condition was brought on by her husband keeping her in a nervous state. He drank to excess frequently and she couldn't trust him. She then said that Garland Johnson had phoned her

Sunday morning, 18 Jan 48 and told her Hambleton and he, Johnson had a little accident that he was O.K. and not to worry. She received several calls but couldn't get the same story. She couldn't talk with her husband and Johnson kept giving her the run-around as to what happened and the extent of injury. He was supposed to be in a hospital in Lovelock, there was an initial report of internal injuries then later Johnson told her only cuts and bruises were involved. She wired the hospital but could not get any answer, so she didn't know what to think. I asked her if her husband was being held for any reason as a result of the accident. She did not know.

21. While this agent was present a friend phoned and told Mrs. Hambleton that she was awfully sorry about Mr. Hambleton being held on charges, she did not say what and Mrs. Hambleton pretended to know, feeling that I would tell her if it was true.

22. A few minutes later Mr. Hambleton phoned from Lovelock, Nevada. He told her he would be in the hospital for a couple of days with a bad shoulder. He would not go on to Reno as planned but would stay in Lovelock and get work. Garland Johnson was going to get him a job there. Mrs. Hambleton told him his mother was going to send him money to come home but he requested this not be done because he was staying out there for a while. She did not divulge my presence. She was very much upset about the whole situation and



asked me, if I could get information from Nevada, to please tell her, she wanted to know the worst. She had received a telephone call from the FBI who asked her if her husband owned the car he was driving, that the Sheriff of Lovelock wanted to know. She told this party that he did or at least he was up on his payments as far as she knew, because he was supposed to make one just before he left on the trip. When Johnson first phoned her about the accident he told her to notify the Insurance Co. about it which she did.

23. Mrs. Hambleton and her 3 children are finding it very difficult to get along because she is getting practically no money from Hambleton. When I told her about his AWOL business and the fact that he received \$25.00 for each apprehension she registered surprise. This agent believes she knew nothing about her husband's AWOL business. She knew Lt. Bennett, that he was married to a model and had changed his name from Crowthers for some reason but that all she did know.

24. Hambleton was very close with money. She had evidence to sue him for non-support any time.

\* \* \*

/s/ W. L. ANDERSON,  
Agent CID.

A Certified True Extract Copy :  
ROBERT F. JONES,  
Captain CMP.

R. R. ROSE.

Admitted Nov. 8, 1949.

DEFENDANT'S EXHIBIT A-7

In the United States District Court for the Western District of Washington, Northern Division.

No. 1984

O. E. HAMBLETON and HARRIET ELIZABETH HAMBLETON, His Wife,  
Plaintiffs,

vs.

UNITED STATES OF AMERICA,  
Defendant.

STIPULATION

It Is Hereby Agreed and Stipulated by and between counsel for respective parties herein that if Col. Carol V. Cadwell were called as a witness in the above entitled cause, he would testify to the following facts:

1. That he holds the rank of Colonel in the Army of the United States and is presently assigned as Provost Marshal for the Sixth Army, and that he has held such assignment since a date prior to January 1, 1948.

2. That as Provost Marshal for the Sixth Army, he is responsible to the Commanding General of the Sixth Army for the activities of the Criminal Investigation Division within the Sixth Army area and that the State of Washington is in the Sixth Army area.

3. That he is familiar with the authorized ac-

tivities of the Criminal Investigation Division of the Army.

4. That Field Manual 19-20, a War Department publication entitled "Criminal Investigation" is the official manual covering the activities of agents of the Criminal Investigation Division.

5. That he is familiar with War Department Circular No. 276, dated 11 September 1946, Section 1, entitled, "Criminal Investigation Program—Responsibilities and Procedures"; and that such circular is the official War Department publication dealing with the Criminal Investigation program which was in effect on January 21, 1948.

6. That personnel selected for agents in the Criminal Investigation Division are required to have certain qualifications as well as aptitude for investigative work. These qualifications consist generally of experience in investigative work such as police work, credit investigations, claim adjustments, commercial investigations and similar types of work, and that the purpose of such selection is to obtain personnel who have the necessary mental qualifications to be trusted with responsibilities of carrying out an investigation once an investigative mission has been assigned.

7. When Criminal Investigation Division agents are assigned a mission to investigate a case, these agents have wide discretion as to the manner in which they will perform the investigation. There are no exact and specific orders or rules as to the

time and place and manner of interrogating witnesses. These matters are left to the discretion of the agent, it being assumed, of course, that the agent will use good judgment in exercising such discretion. By the very nature of a Criminal Investigation Division agent's work, it is impossible to accurately prescribe in advance just how he is to perform his duties with regard to interrogating witnesses, that of necessity this matter is left with the discretion of the particular agent.

8. That at the time Criminal Investigation Division agent Anderson interviewed Mrs. Hambleton he was investigating a member of the Army and not Mr. Hambleton, and in such activities C.I.D. Agent Anderson was acting within the scope of his official authority.

It Is Further Stipulated and Agreed that plaintiff reserves the right to object to the admissibility of the testimony set out herein.

Dated this 2nd day of November, 1949.

/s/ J. CHARLES DENNIS,  
United States Attorney.

/s/ VAUGHAN E. EVANS,  
Assistant United States Attorney, Attorneys for  
Defendant.

/s/ STANLEY C. SODERLAND,  
/s/ GEORGE R. WEST,  
Attorneys for Plaintiff.

Admitted Nov. 8, 1949.

[Endorsed]: Filed Nov. 8, 1949, U. S. D. C.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK, U. S. DISTRICT  
COURT, TO RECORD ON APPEAL

United States of America,  
Western District of Washington—ss.

I, Millard P. Thomas, Clerk of the above-entitled court do hereby certify that pursuant to the provisions of Subdivision 1 of Rule 11 as Amended of the United States Court of Appeals for the Ninth Circuit, and Rule 75(o) of the Federal Rules of Civil Procedure, I am transmitting herewith all the original papers in the file dealing with the above-entitled action or proceeding, including the transcript of the testimony and proceedings at the trial, together with Plaintiff Exhibits 1, 2 and 3 and Defendant Exhibits A-1 to A-7, inclusive, the same being the complete record on file in said cause. The papers herewith transmitted constitute the record on appeal from the judgment filed and entered November 21, 1949, to the United States Court of Appeals at San Francisco, California, and are identified as follows:

1. Complaint.
2. Praecipe for summons.
3. Summons with Marshal's Return thereon.
4. Appearance of defendant.
5. Motion of Defendant to Dismiss.
6. Memorandum of Deft. on Sec. 421(h) of Federal Tort Claims Act.

7. Ptff's Notice of Issue of Law and Note for Motion Docket.

8. Order Denying Motion to Dismiss.

9. Court Reporter's Transcript of Court's Decision on Motion to Dismiss.

10. First Amended Complaint.

11. Answer to First Amended Complaint.

12. Reply.

13. Note for Call Calendar by Plaintiffs.

14. Plaintiffs' Motion for Setting.

15. Plaintiffs' Notice of Motion.

16. Plaintiffs' Notice of Association of Attorneys.

17. Praecipe, plaintiffs, for subpoena (Lt. C. J. Williams).

18. Subpoena, (Williams) with Marshal's Return thereon.

19. Praecipe, Government, for Subpoena (Nunn).

20. Praecipe, Government for subpoenas (Flaherty and Dewey).

21. Praecipe for subpoena, (Capt. Jones) behalf Government.

22. Praecipe, Government for subpoena (Dr. Flaherty).

23. Praecipe for subpoena, Government (Bernucci, et 3).

24. Subpoena (Nunn) with Marshal's return thereon.

25. Subpoena (Riley) with Marshal's return thereon.



26. Subpoena (Flaherty) with Marshal's return thereon.

27. Subpoena (Dewey) with Marshal's return thereon.

28. Motion deft. for Leave to Amend Answer.

29. Note for Motion Docket.

30. Amended Answer to First Amended Complaint.

31. Praecipe for subpoena, (Riley) behalf plaintiffs.

32. Marshal's return on subpoena (Nunn).

33. Marshal's return on subpoena (Dewey).

34. Defendant's Memorandum of Authorities.

35. Marshal's return on subpoena (Flaherty).

36. Plaintiff's Memorandum of Authorities.

37. Defendant's Supplemental Memorandum of Authorities.

38. Plaintiff's Supplemental Memorandum of Authorities.

39. Court's Decision.

40. Notice of Presentation of Findings of Fact and Conclusions of Law and Decree of Judgment.

40-A. Bill of Costs and Disbursements to Be Taxed Against Defendant.

41. Findings of Fact and Conclusions of Law.

42. Judgment for Plaintiffs.

43. Defendant's Notice of Exception to the Entry of Findings of Fact, Conclusions of Law and Judgment.

44. Notice of Appeal, by defendant, with copy of Clerk's letter of transmittal of duplicate copy to counsel for plaintiff.

45. Motion deft. for Order Directing Issuance of Subpoena (Dr. Flaherty).

46. Order for Subpoena of Witness and Payment of Fees.

47. Motion to Extend Time for Docketing Record on Appeal.

48. Stipulation to Extend Time for Docketing Record on Appeal.

49. Order Extending Time for Docketing Record on Appeal to March 27, 1950, inclusive.

50. Praecipe for certified copies of order for subpoena of witness (Dr. Flaherty) and payment of fees.

51. Transcript of Proceedings at Trial. (Original copy.)

52. Copy of Points to Be Relied Upon on Appeal, of appellant.

53. Copy of Designation of Portions of Record to be printed, filed by appellant.

In Witness Whereof I have hereunto set my hand and affixed the official seal of said district court at Seattle, this 23rd day of March, 1950.

MILLARD P. THOMAS,  
Clerk.

[Seal]: By /s/ TRUMAN EGGER,  
Chief Deputy.

[Endorsed]: No. 12513. United States Court of Appeals for the Ninth Circuit. United States of America, Appellant, vs. O. E. Hambleton and Harriet Elizabeth Hambleton, his wife, Appellees. Transcript of Record. Appeal from the United States District Court for the Western District of Washington, Northern Division.

Filed March 27, 1950.

/s/ PAUL P. O'BRIEN,  
Clerk of the United States Court of Appeals for the  
Ninth Circuit.

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In the United States Court of Appeals  
for the Ninth Circuit

No. 12513

UNITED STATES OF AMERICA,  
Appellant,  
vs.

O. E. HAMBLETON and HARRIET ELIZA-  
BETH HAMBLETON, His Wife,  
Appellees.

POINTS TO BE RELIED UPON  
ON APPEAL

Comes now the appellant, United States of America, and states that the following points will be relied upon on appeal in the above-entitled cause:

1. The District Court erred in denying the ap-

pellant's motion to dismiss the complaint, said motion being timely made.

2. The District Court erred in finding there was any tort committed by the appellant's agent for which relief would be granted under the laws of the State of Washington.

3. There was no evidence adduced at the trial to support the Court's finding that the appellant's agent grilled the appellee and generally used emotionally distressing methods which were likely to injure her body and mind or endanger her health and the District Court erred in so finding.

4. There was no evidence adduced at the trial to support the Court's finding that the conduct of the appellant's agent was unlawful and the District Court erred in so finding.

5. There was no evidence adduced at the trial to support the District Court's finding that the appellant's agent's conduct was the proximate cause of the appellee's injuries and the District Court erred in so finding.

6. That the District Court does not have jurisdiction of the appellee's cause of action for the reason that said cause of action is within the exceptions to the Federal Tort Claims Act as set out in Section 2680, Title 28, U. S. C. in the following regard:

Subparagraph (a), the cause of action arises out of assault, misrepresentation and deceit.

Subparagraph (b), the cause of action is based upon the abuse of discretion on the part of the employee of the United States while exercising a discretionary function on the part of a Federal agency.

7. The Court erred in sustaining the appellee's motion that the witness, Harriet Hambleton, not be required to reveal the name of one of her husband's clients, her husband being a private detective as disclosed by the proceedings reported on pages 49 and 50 of the transcript of testimony.

8. The Court erred in granting judgment in favor of the appellee.

/s/ J. CHARLES DENNIS,  
United States Attorney.

/s/ VAUGHN E. EVANS,  
Assistant U. S. Attorney.

Receipt of copy acknowledged.

[Endorsed]: Filed Mar. 27, 1950.

[Title of District Court and Cause.]

APPLICATION TO HAVE EXHIBITS CON-  
SIDERED IN ORIGINAL FORM AND DE-  
LETION OF PORTION OF EXHIBIT A-5.

Comes now the appellant, United States of America, and makes application to the Court for permission to have Exhibits A-2, A-3 and A-4 in the above-entitled cause considered by the Court in their original form rather than have the same printed as a part of the record.

Application is further made for the deletion of that portion of Exhibit A-5 from the printing of the record which does not pertain or is a part of Circular 276.

This application is based upon stipulation between the parties attached hereto.

/s/ J. CHARLES DENNIS,  
United States Attorney.

/s/ VAUGHN E. EVANS,  
Assistant U. S. Attorney.



[Title of District Court and Cause.]

### STIPULATION

It Is Hereby Agreed and Stipulated by and between the parties in the above-entitled appeal through their respective counsel of record that Exhibits A-2, A-3 and A-4 in the above-entitled cause may be considered by the court in their original form without being printed in the record.

It Is Further Agreed and Stipulated that only that portion of Exhibit A-5 which pertains to War Department Circular 276 is properly a part of Exhibit A-5 and that only that portion of said exhibit which is not deleted by being marked out in red be printed as a part of the record.

Dated this 22nd day of March, 1950.

/s/ J. CHARLES DENNIS,  
United States Attorney.

/s/ VAUGHN E. EVANS,  
Assistant U. S. Attorney.

/s/ STANLEY C. SODERLAND,

/s/ GEORGE R. WEST,  
Attorneys for Appellee.

[Title of Court of Appeals and Cause.]

ORDER RE EXHIBITS

This matter having come on on application of the appellant for permission to have the Court consider Exhibits A-2, A-3, and A-4 in the above-entitled appeal in their original form and further that only that portion of Exhibit A-5 which pertains to War Department Circular 276 be printed as a part of the record and the parties to said appeal having consented to such procedure by stipulation filed herein, it is hereby

Ordered, Adjudged and Decreed that Exhibits A-2, A-3 and A-4 now on file with the Clerk of this Court be considered in their original form, and it is

Further Ordered that only that portion of Exhibit A-5 which pertains to War Department Circular 276 be printed as a part of the record.

Done this 28th day of March, 1950.

/s/ WILLIAM DENMAN,

/s/ H. T. BONE,

/s/ WALTER L. POPE,

Judges U. S. Court of Appeals  
for the Ninth Circuit.

The appellees hereby consent to the entry of the foregoing order.

By /s/ STANLEY C. SODERLAND,  
Counsel for Appellees.

